

**STANDARD SHORT-TERM CONTRACT FOR THE SALE OF STANDING TREES
between**

FORESTRY AND LAND SCOTLAND

and

[]

[Insert name of Purchaser]

PURCHASER

STANDARD SHORT TERM CONTRACT
For the Sale of Standing Trees

Between

The Scottish Ministers, acting through Forestry and Land Scotland, an executive agency established pursuant to the Forestry and Land Management (Scotland) Act 2018 and having its principal place of business at Great Glen House, Leachkin Road, Inverness IV3 8NW (hereinafter referred to as ("**Forestry and Land Scotland**")

and

the party whose details are set out in Part 1 of the Schedule (hereinafter referred to as the ("**Purchaser**")

each of Forestry and Land Scotland and the Purchaser a "**party**" and together referred to as the "**parties**"

WHEREAS:-

Forestry and Land Scotland has offered in auction or tender or negotiation to sell and the Purchaser wishes to purchase certain timber products subject to the terms and conditions set out in this Agreement.

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:-

1. INTERPRETATION

1.1 In this Agreement, unless the context otherwise requires, the following terms have the meanings given to them below:

"Agreement" means this agreement and the Schedule;

"Applicable Law" means:

- a) any law, statute, regulation, or subordinate legislation in force from time to time to which the Purchaser is subject and/or in any jurisdiction in which this Agreement is performed.
- b) the common law as applicable to the Purchaser, the Trees, the Products and / or the removal of or access to the Products from time to time;

- c) any binding court order, judgment, or decree; and
- d) any applicable direction, policy, rule, or order that is from time to time binding on the Purchaser or applicable to the Trees or the Products and / or the removal of or access to the Products and that is made or given by any regulatory body having jurisdiction over the Purchaser or any of its assets, resources, or business.

“Authorised Access Routes” means the roads which may be used by the Purchaser and any of the Purchaser Representatives pursuant to this Agreement marked as such on the Road Access Map(s) and are subject to the appropriate parts of the Road Traffic Act 1988 and should comply with the classification and associated specification as stated in Part 4 of the Schedule;

“Authorised Credit Facility” means a credit facility by Forestry and Land Scotland in favour of the Purchaser and notified in writing to the Purchaser by Forestry and Land Scotland;

“Biosecurity” means measures taken to protect the forest environment and stop the introduction or spread of harmful organisms;

“Business Day(s)” means any day on which the clearing banks are open for business;

“CDM Regulations 2015” means the Construction (Design and Management) Regulations 2015;

“Climate Change Plan” means the Scottish Government’s ‘Update to the Climate Change Plan 2018 – 2032 Securing a Green Recovery on a Path to Net Zero’;

“Commencement Date” means the date or last date of execution of this Agreement;

“Completion Certificate” means a certificate issued to the Purchaser by Forestry and Land Scotland following (i) completion of all operational activity and any remedial work, confirming that the Sale Area has been returned to and accepted by Forestry and Land Scotland in accordance with UKWAS and UKFS standards and as being compliant with any other Applicable Law, strategies, plans and guidance deemed appropriate, and (ii) the sharing of environmental, water, and harvester head data;

“Confor” means the Confederation of Forestry Industries;

“Contractor” means any person who directly engages forestry workers or manages forestry work, who may be an individual, a sole trader, a self-employed worker or a business which carries out, manages, or controls forestry work, including companies that use their own workforce to do forestry work on their own premises;

“Constraints Map” means any map identified as such in Part 4 of the Schedule showing the constraints and hazards relative to the Sale Area;

“Deadwood Guidance” means the following two Forestry and Land Scotland guidance documents: ‘Deadwood management – Guidance for Forestry and Land Scotland staff’ and ‘Forestry and Land Scotland Deadwood Management – Summary Guidance for Forestry and Land Scotland’ as the same may be amended, supplemented or replaced from time to time;

“DRN” means Despatch Reference Number, a unique and pre-registered conveyance note number assigned to an individual Load or any part thereof for the uplift and removal of Products;

“Environmental Supervisor” means a competent person who is engaged by the FWM solely to supervise any Sensitive Site during forest operations and to act as the main point of contact during the time such forest operations are carried out;

“End Date” means the date specified as such in Part 1 of the Schedule, being the expected date by which all operational activity will be complete and all timber removed from the Sale Area, based on standard harvesting outputs as described in the Sale Catalogue, and expected uplift patterns;

“Environment” means all or any of the following media:

- a) air (including air within buildings or other structures and whether below or above ground);
- b) land (including buildings and any other structures or erections in, on or under it and any soil and anything below the surface of the land); and
- c) land covered with water, and water (including sea, ground and surface water),

together with any living organism and / or ecosystem supported by any such media;

“Environmental Law” means all applicable laws, regulations, codes of practice, circulars, guidance notes and other similar controls and advice made or issued by national or local governments or any other regulatory or administrative body from to time in existence and where relevant enforceable relating to protection of the Environment, including, without limitation, prevention of pollution of any land, water or air due to: pollution of any land, water or air; the release, escape or other emission of any substance, including radioactive substances; the generation, production, transportation, storage, treatment, recycling or disposal of waste; or noise or nuisance;

“Excluded Products” means any/all roundwood less than 7cm T.D UB up to the tip of the tree, all branchwood retaining needles, all branchwood not retaining needles and stumps;

“FISA” means the Forestry Industry Safety Accord;

“FISA Safety Guides” means any safety guides issued by FISA from time to time which are applicable to the Purchaser, the Trees, the Products and / or all work activity associated with access to or removal of the Products;

“Felling Order” means the systematic order in which the Sale Area must be felled, and in the event of a felling order being required, as initially specified in Part 4 of the Schedule and / or as provided by the Purchaser at the PCM for agreement by both parties, any change to which must be agreed in writing between the parties;

“Felling Removal Date” means the End Date unless otherwise specified by Forestry and Land Scotland, any change to which must be agreed in writing between the parties;

“FLS Land” means any land placed at Forestry and Land Scotland’s disposal by the Scottish Ministers under the Forestry and Land Management (Scotland) Act 2018;

“FLS Representative” means any Forestry and Land Scotland representative deemed competent by Forestry and Land Scotland in the health and safety requirements of specific forestry operations taking place on the Sale Area who has been trained in the use of the RAG System and has an appropriate knowledge of the Site Specific Conditions, and who is named at the PCM as authorised to allocate ratings under the RAG System;

“Forestry and Land Scotland Contract Manager” means the person named in Part 1 of the Schedule, any subsequent change to which shall be notified in writing by Forestry and Land Scotland to the Purchaser, and acting at all times as the lead contact for Sale Area specific matters and any associated communication between other FLS Representatives and the FWM;

“Forestry and Land Scotland Policies and Procedures” means such relevant policies and procedures as may be solely determined by Forestry and Land Scotland from time to time and notified to Confor as the same may subsequently be modified by Forestry and Land Scotland (and notified too Confor) from time to time;

“Forestry and Land Scotland Site Monitoring Visit” means a site visit carried out by the Forestry and Land Scotland Contract Manager or FLS Representative, on a frequency solely determined by Forestry and Land Scotland, to monitor compliance by the Purchaser with the terms of this Agreement and allocate a green, amber or red rating;

“Force Majeure” means any event or occurrence which is outside the reasonable control of the party concerned and which is not attributable to any act or failure to take preventative action by that party, including industrial action, fire, flood, violent storm, pestilence, explosion, malicious damage, armed conflict, acts of terrorism, nuclear, biological or chemical warfare, or any other disaster, natural or man-made other than fire or windblown damage as provided in clause 11.8;

“Forest Roads” means all road areas that are or may be affected by the harvesting and / or haulage operations of the Purchaser pursuant to this Agreement, including roads with coupe frontage and Stacking Sites, within the Sale Area and associated roads as detailed on the Sale Maps;

“Forest Works Manager (FWM)” means the competent person or organisation appointed by the Purchaser (and who may be the Purchaser) who commissions the work on a forestry site and who is responsible for the selection of competent Contractors, making adequate provisions for health and safety, specifying health and safety measures for Contractors working on the Sale Area and anyone else who may be affected by the work activity; ensuring that all appropriate risk assessments and /or systems of work are in place prior to work commencing and are regularly reviewed and ensuring adequate supervision of health, safety and environmental measures on site; and making arrangements for the reporting of incidents, unsafe practices or dangerous occurrences and near misses;

“FSC” means Forest Stewardship Council;

“FWM Routine Site Visit” means a site visit carried out by the FWM to evaluate harvesting site standards and contract progress for subsequent reporting to Forestry and Land Scotland;

“Good Industry Practice” means standards, practices, methods, and procedures conforming to legal and regulatory requirements and the degree of skill and care, diligence, prudence, and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking as the Purchaser under the same or similar circumstances;

“Guidance” means any applicable industry guidance, code, practice, policy or standard;

“Harvesting Production Plan” means a plan setting out an indicative timeline to complete all felling on the Sale Area and an estimated weekly quantity and timeline for the extraction to roadside of Products for uplift in terms of this Agreement, prepared by the Purchaser for agreement by the parties at the PCM;

“Harvesting Recovery Plan” means a plan prepared by the Purchaser and agreed in writing by both parties, in the event that the actual quantity of

Products both at stump and roadside, together with the quantity of Products uplifted and removed, is 20% or more behind Harvesting Production Plan;

“Harvester Production Files and Stem Files” means harvester files relating to production, timber measurement and product assortment information but separate from telematics and machine performance data;

“Health and Safety Law” means all applicable national or local laws or regulations (and any codes of practice, circulars or guidance notes issued pursuant thereto (including any issued or approved by the Health & Safety Executive or any equivalent body)) which relate to health and safety or the conduct of forestry operations, work on forest land and/or trees or roundwood directly derived from a tree on forest land or such other operations or processes as may be binding on the Purchaser or applicable to the Trees, the Products and / or the removal of or access to the Products from time to time and all judicial and administrative interpretations of any of the foregoing;

“Health and Safety Executive” means the UK government agency responsible for the encouragement, regulation and enforcement of workplace health, safety and welfare, which expression shall include any successor bodies from time to time;

“Independent Panel” means a group comprising no less than three Confor members, acceptable to both parties, and each with at least ten years’ relevant experience in technical forestry matters or in the timber trade and with relevant, recognised qualifications who may from time to time be appointed, at the request of either of the parties and, in the event of failure by either party to agree the Independent Panel then the Deputy Chief Executive of Confor will appoint the group members on request from either party;

“Load” means an individual load of Products uplifted and removed by the Purchaser in terms of this Agreement;

“MSA Offence” means an offence under the Modern Slavery Act 2015;

“NatureScot” means Scottish Natural Heritage, established by the Natural Heritage (Scotland) Act 1991 and having its head office at Great Glen House, Leachkin Road, Inverness IV3 8NW and operating as NatureScot;

“PEFC” means the Programme for the Endorsement of Forest Certification;

“Pipeline Value” means the estimated value of Products uplifted and removed by the Purchaser from the Sale Area pending the rendering of invoices by Forestry and Land Scotland in respect of such Products;

“Pre-Commencement Meeting (PCM)” means a process co-ordinated by the FWM and by which the FWM demonstrates its competency, and that of its agents, Contractors, and subcontractors, for managing all work activities

under the FWM's control in terms of this Agreement safely and without risk to the Environment which process shall culminate in a meeting held between the Purchaser/ FWM, their Contractors and Forestry and Land Scotland, at the Sale Area, prior to the Start Date, to discuss the conditions contained in this Agreement and the Schedule in relation to the Sale Area;

"Pre-paid Instalment" means in respect of the Products one or more equal payments spread over an agreed period of time amounting to the equivalent value of the Total Quantity multiplied by the price (plus VAT), each instalment to be paid by the Purchaser in advance of felling, uplift, and removal of the relevant Products;

"Priority Species and Habitats" means those animals, plants and habitats listed in the Scottish Biodiversity List maintained and published by the Scottish Ministers as the same may be amended from time;

"Price" means as specified in Part 1 of the Schedule;

"Products" means the timber felled from the Trees both at stump and extracted to roadside, not including the Excluded Products;

"Protected Species" means species that have legal protection under Applicable Law including the Wildlife and Countryside Act 1981; the Conservation (Natural Habitats &c.) Regulations 1994; and the Protection of Badgers Act 1992;

"Public Access Management Plan (PAMP)" means the plan applicable to forest operations that are classified by Forestry and Land Scotland as being medium to high risk for members of the public;

"Purchaser Representative" means any person engaged from time to time by the Purchaser in connection with this Agreement, including in connection with access to and / or removal of the Products, including:

- its employees and workers (including persons employed by a third party but working for and under the control of the Purchaser);
- its agents, service providers, Contractors (including, without limitation, haulage Contractors) and carriers, or in each case, any employees, sub-contractors or agents thereof; and / or
- any sub-contractors of the Purchaser or any workers thereof;

"RAG System" means a contract reporting system based on traffic light indicators all as set out from time to time in Forestry and Land Scotland policy and guidance relating to the "Use of RAG" (a copy of which is available on the Forestry and Land Scotland website);

“Retained Products” means any Products that have been retained by Forestry and Land Scotland in terms of clause 10, clause 11 or clause 12 of this Agreement;

“Resting Places” means the areas or features essential to sustain an animal or group of animals when they are not active, and which must be protected in terms of the Wildlife Protection Legislation even when not in use;

“RIDDER” means the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013;

“Road Access Map(s)” means the map or maps identified as such annexed as Part 4 of the Schedule;

“Road Haulage of Round Timber Code of Practice” means the document entitled "Road Haulage of Round Timber Code of Practice Fifth Edition 2020" published by the Timber Transport Forum, as the same may be updated, amended, or replaced from time to time, and which is approved by Forestry and Land Scotland;

“SEPA” means the Scottish Environment Protection Agency;

“Scottish Forestry” means the Scottish Ministers acting through Scottish Forestry, an executive agency established pursuant to the Forestry and Land Management (Scotland) Act 2018 and having a place of business at Silvan House, 231 Corstorphine Road, Edinburgh EH12 7AT;

“Sale Area” means any area of land shown outlined in red on the Sale Maps;

“Sale Catalogue” means the sale catalogue prepared by Forestry and Land Scotland in relation to the standing timber to be harvested from the Sale Area, extracted to roadside, and uplifted for removal in accordance with this Agreement, which catalogue is made available by Forestry and Land Scotland via an e-sales platform for competitive tenders;

“Sale Maps” means the map(s) marked “Location” in Part 2 and Part 4 of the Schedule;

“Sale Type” means the agreed method of sale and payment type, pursuant to the Price(s) as specified in Part 1 of the Schedule;

“Schedule” means the Schedule in 4 Parts annexed and attached as relative to this Agreement;

“Scottish Biodiversity Strategy” means the Scottish Government’s ‘Biodiversity Strategy to 2045: tackling the nature emergency’ (2022), and associated documents as the same may be amended, supplemented or replaced from time to time;

“Sensitive Site” means all or any part of a Sale Area that has been deemed by Forestry and Land Scotland to be highly sensitive and that is identified as such on the Constraints Map or is specified as such in the Site Specific Conditions;

“SF Guidance” means all relevant guidance on Forests and the Environment published from time to time by Scottish Forestry;

“Site Specific Conditions” means any specific conditions, constraints and / or hazards relative to the Sale Area as set out in Parts 3 and 4 of the Schedule or as otherwise notified to the Purchaser by Forestry and Land Scotland from time to time;

“SPHN” means Statutory Plant Health Notice served by Scottish Forestry;

“Stacking Sites” means those locations adjacent to Authorised Access Routes, at all times located within the area shown by hatching (or otherwise identified) in the Road Access Map on which the Products are to be presented for uplift and removal by the Purchaser;

“Sub-contractors” means any person engaged by a Contractor to work for them on a contract basis rather than by direct employment, who may be an individual, a sole trader, a self-employed worker or a business who carries out, manages, or controls forestry work, it being declared that a sub-contractor does not have to be engaged directly in the forestry work on any Sale Area to be a sub-contractor;

“Start Date” means the date as specified as such in Part 1 of the Schedule and being the date on which the coupe is fully accessible and ready for felling and extraction to commence (or such other date as may be agreed in terms of clause 4.2);

“Term of this Agreement” means the period from the Commencement Date to the date that the Completion Certificate is issued by Forestry and Land Scotland to the Purchaser in terms of clause 16;

“Total Quantity” means the estimated total quantity / volume of the Trees specified as such in Part 1 of the Schedule within the parameters of +/-20% of the estimated total quantity / volume in accordance with the Forestry Commission guide on “Forest Mensuration”;

“Trees” means the standing and measurable trees within the Sale Area as clearly defined by Forestry and Land Scotland on the Sale Maps and marked out on the Sale Area by white tape details of which trees are set out in Part 1 of the Schedule;

“Unmeasurable Trees” means standing trees with a diameter breast height of less than 7cm;

“Unauthorised Felling” means any felling, cutting, removal of or damage to any Tree not intended to be felled, cut or removed pursuant to this Agreement;

“Unauthorised Representative” means any haulage Contractor(s) and / or any other Purchaser Representative(s) whose identity has not been notified to Forestry and Land Scotland and who accesses or attempts to access the Sale Area for the uplift and removal or attempted uplift and removal of the Products;

“Unauthorised Uplift” means any instance of the Purchaser or any Purchaser Representative uplifting and removing Products otherwise than in accordance with Forestry and Land Scotland Uplift Policy and Procedures (a copy of which is available on the Forestry and Land Scotland website);

“United Kingdom Forestry Standard (UKFS)” means the reference standard for sustainable forest management in the UK;

“UK Woodland Assurance Standard (UKWAS)” means an independent certification standard for verifying sustainable woodland management in the UK used for both FSC and the PEFC certification;

“Welfare Facilities” means the provision of appropriate facilities at the cost of the Purchaser for the health, safety, and welfare of those working on site (including transient workers such as haulage drivers) in compliance with the requirements of the Workplace (Health, Safety and Welfare) Regulations 1992 as detailed in FISA Safety Guide 806 Welfare; and

“Wildlife Protection Legislation” means the Wildlife and Countryside Act 1981; the Conservation (Natural Habitats &c.) Regulations 1994; and the Protection of Badgers Act 1992.

- 1.2 References to any of the parties hereto shall, subject to clause 17, include their respective executors, personal representatives, and successors in title and assignees.
- 1.3 The headings in this Agreement and in the Schedule are inserted for convenience only and shall not be taken into account in the interpretation of them.
- 1.4 References to recitals, numbered clauses and sub-clauses are references to recitals, clauses, and sub-clauses of this Agreement unless the context otherwise requires.
- 1.5 References in this Agreement to any statute or statutory or legislative provisions shall be deemed to include reference to any statute, regulation or statutory instrument which amends, extends, consolidates, or replaces the same (or shall have done so) and to any other regulation, statutory instrument or other subordinate legislation made thereunder or pursuant thereto.

- 1.6 In this Agreement, the words "include", "includes", "including" and any similar words or expressions are to be construed as if they were immediately followed by the words "without limitation".
- 1.7 In this Agreement, words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include the feminine and the neuter genders and vice versa.
- 1.8 Where, in terms of this Agreement, any obligation is stated to be incumbent on the FWM and/or the Environmental Supervisor, the Purchaser shall be obliged to procure compliance of the relevant obligation by the FWM and/or the Environmental Supervisor (as applicable), all in accordance with the terms of this Agreement.
- 1.9 This Agreement shall come into force on the Commencement Date and time is of the essence. Immediately upon execution of agreement for the sale and purchase contemplated hereunder, this Agreement is subject to the following conditions:

2. INTRODUCTION TO THE UKFS AND UKWAS

- 2.1 All Forestry and Land Scotland woodlands and forests are managed in accordance with the UKFS, the reference standard for sustainable forest management in the UK.
- 2.2 The UKFS provides the basis of forestry practice for the independent, voluntary UKWAS. UKWAS reflects the requirements of the two leading global forest certification schemes, the FSC and the PEFC.
- 2.3 Forestry and Land Scotland holds the independent, voluntary UKWAS certification, providing ongoing, verified assurance that timber and wood products come from responsibly managed, sustainable forest management. UKWAS certification is additional to compliance with legislation and statute, and conformance to relevant codes of practice and good practice guidelines.
- 2.4 The Purchaser shall comply and conform and shall ensure that any of the Purchaser Representatives shall comply and conform, with UKFS and UKWAS requirements. The Purchaser accepts that any remedial breach in respect of clause 2 may impact on any such certification held by the Purchaser.

3. RISK AND PROPERTY

- 3.1 The risk in the Trees and the Products shall pass to the Purchaser on the Start Date and the Purchaser shall be responsible to Forestry and Land Scotland for any loss or damage to or caused by the Trees or the Products from such date as a result of any negligent act or omission by the Purchaser

or any of the Purchaser Representatives or any breach of this Agreement by the Purchaser or any of the Purchaser Representatives.

- 3.2 Notwithstanding the passing of risk under clause 3.1 above, unless and until the Purchaser shall have paid Forestry and Land Scotland all sums due pursuant to this Agreement and removed the Total Quantity, property in and title to, all the Trees and the Products shall remain with Forestry and Land Scotland and the following provisions of this clause 3 shall apply.
- 3.3 The Purchaser grants Forestry and Land Scotland an irrevocable licence to enter the Purchaser's premises or any other premises in the occupational control of the Purchaser where the Trees are or are believed by the Purchaser or Forestry and Land Scotland to be located and to inspect the Trees and fell and remove the Products at any time while they remain Forestry and Land Scotland's property. In the event that any of the Trees or the Products are no longer in the occupational control of the Purchaser or any of the Purchaser Representatives, the Purchaser shall use its best endeavours to facilitate the inspection and/or removal of the Trees or the Products by Forestry and Land Scotland at any time while they remain Forestry and Land Scotland's property. All costs incurred by Forestry and Land Scotland in repossessing the Trees or the Products whether or not they are still under the control of the Purchaser shall be borne by the Purchaser; and
- 3.4 The Purchaser shall immediately notify Forestry and Land Scotland if the Purchaser (or its directors) intend to present a petition for the making of an administration order or a winding-up petition or if the Purchaser (or its directors) is aware of any such intention on the part of any of the Purchaser's creditors or if any of the other circumstances specified in clause 11.9(a) to 11.8 (e) inclusive are to the Purchaser's knowledge considered likely to arise.
- 3.5 The licence granted in terms of clause 3.3 shall not create a tenancy or any relationship of landlord or tenant between the parties and shall save where terminable earlier pursuant to the terms of this Agreement or as may otherwise be agreed in writing subsist only until the expiration of the period provided for in clause 11.12.

4. OVERARCHING SALE AND SPECIFICATION OF TREES, SALE AREA AND ACCESS

- 4.1 The Sale Type of and the Price to be paid for the Products shall be as specified in Part 1 of the Schedule.
- 4.2 The Start Date and the End Date shall be as specified in Part 1 of the Schedule, provided always that the Start Date may, at the request of the Purchaser and with the agreement of Forestry and Land Scotland at the PCM, be deferred for a maximum of two calendar months.

- 4.3 Pursuant to and subject to the terms and conditions of this Agreement Forestry and Land Scotland shall sell and the Purchaser shall purchase the Total Quantity.
- 4.4 Forestry and Land Scotland have derived the Total Quantity from production forecast data and / or tariff method as stated in the Sale Catalogue. The Purchaser shall be deemed to have formed their own estimate of sale quantity / volume of Trees on the Sale Area and shall also be deemed to have satisfied themselves as to the occurrence of butt rot and stain and no subsequent allowance or reduction will be made.
- 4.5 For the avoidance of doubt the Purchaser shall be required to fell all Trees within the Sale Area, and extract to roadside and uplift for removal all Products unless otherwise specified by Forestry and Land Scotland in the Site Specific Conditions. In addition, the Purchaser shall be obliged to fell all Unmeasurable Trees within the Sale Area and shall leave the same on site and cut into 3 metre lengths unless otherwise specified by Forestry and Land Scotland in the Site Specific Conditions.
- 4.6 Neither party will be deemed to be in breach of clauses 4.3 or 4.4 where the quantity of Trees felled, extracted, and uplifted from roadside is more than plus or minus 20% of the Total Quantity, in which case clauses 4.7 and 4.8 will apply.
- 4.7 Pursuant to clause 4.6 where the quantity of Trees felled, extracted and uplifted from roadside is more than / likely to be more than 20% short of the Total Quantity, and only upon request from the Purchaser, Forestry and Land Scotland will carry out a review of the crop survey data, Harvester Production Files and Stem Files for the Sale Area provided by the Purchaser and will provide a report to the Purchaser within 1 calendar month of receiving such a request. For the avoidance of doubt and regardless of the outcome of any such review, Forestry and Land Scotland will not enter into any further agreement for compensatory volume.
- 4.8 Pursuant to clause 4.6, where the quantity of Trees felled, extracted, and uplifted from roadside is more than / likely to be more than 20% above the Total Quantity, the terms and conditions of this Agreement will remain unchanged.
- 4.9 The Parties may, from time to time, agree to the sale of standing timber in addition to the Total Quantity (each such sale an “**additional sale**”) by agreeing an amendment to Part 1 of the Schedule. Unless otherwise agreed in writing, the terms of this Agreement shall apply to such additional sales as if each reference Total Quantity in Part 1 of the Schedule was a reference to the same as amended in terms of this clause 4.9.
- 4.10 The Purchaser shall not fell or remove any Trees other than the Products and shall only take access to or egress from the Sale Area by way of the Authorised Access Routes.

4.11 The Purchaser shall ensure, and shall procure that any of the Purchaser Representatives shall ensure that:

- a) under normal circumstances Good Industry Practice is maintained to ensure that machines do not come onto Forest Roads, except for the purpose of maintenance, and forestry activities are only carried out within any part of the felling area forming part of the Sale Area under declaration that:
 - i) the FWM may take the decision to access a Forest Road with machines on the condition that the Purchaser may be liable for subsequent damage and repair pursuant to clauses 9.3 and 9.4 of this Agreement; and
 - ii) where the Site Specific Conditions prohibit machines from accessing any Forest Road for the reasons stated therein, then any breach of such prohibition will be managed under the RAG System in terms of clause 10 of this Agreement;
- b) the use of any machine or method of working which in the reasonable opinion of Forestry and Land Scotland is causing, or is likely to cause, avoidable damage to standing trees (other than the Trees), any road, bridge, structure, path, track, drain, soil, groundwater or to other property, is stopped on request from Forestry and Land Scotland;
- c) the Authorised Access Routes and all roads in and around the Sale Area (including, for the avoidance of doubt all public rights of way and access, unless specifically agreed by Forestry and Land Scotland) at all times are kept free of obstructions which would prevent free flow of traffic except for a minimum of delay, except where agreement has been reached for temporary closure to facilitate harvesting;

4.12 Where it appears to the Purchaser that the access within the Sale Area or at the point of extraction to the Authorised Access Routes is not sufficient to enable the Purchaser to comply with the terms of this Agreement the Purchaser may apply in writing to Forestry and Land Scotland for consent to cut, fell and remove other trees owned by Forestry and Land Scotland, such consent shall not be unreasonably withheld and shall be confirmed or denied in writing within 1 week of any such written request from the Purchaser. Where Forestry and Land Scotland grant such consent, such consent shall be granted on such terms as Forestry and Land Scotland may determine including payment at the agreed market value. Where no decision is made by Forestry and Land Scotland and notified to the Purchaser within the said 1 week period or where consent is refused or where consent is granted subject to conditions that are not acceptable to the Purchaser, the Purchaser shall be

entitled to exercise their right to seek determination of the dispute by the Independent Panel and/or by an arbitrator in terms of clauses 19.1 to 19.4 of this Agreement. . Any additional felling that requires approval from Scottish Forestry will delay the Start Date and the parties agree that the End Date shall be extended for an equivalent period, but that Forestry and Land Scotland shall not be responsible for any losses or costs incurred by the Purchaser as a result of such additional felling and/or the extension to the End Date. Any such additional felling must be carried out in accordance with clauses 5.8 to 5.10 inclusive and shall be included in the PCM or an additional PCM carried out for such additional felling.

- 4.13 Without prejudice to any other rights of Forestry and Land Scotland the Purchaser shall be liable for any wilful, reckless or negligent damage (including without limitation damage resulting from any failure to comply with clause 5.8 to 5.10 inclusive and damage to Forestry and Land Scotland's property) due to any act or default of the Purchaser or any of the Purchaser Representatives and shall make good the same to the satisfaction of Forestry and Land Scotland within ten Business Days where practicable of its occurrence or within such other timescale as Forestry and Land Scotland (acting reasonably) may specify, failing which Forestry and Land Scotland shall have the right to undertake or procure the undertaking of work necessary to make good any such damage and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any costs, expenses or any other losses or liabilities incurred or suffered by Forestry and Land Scotland in respect of any such works.
- 4.14 If the Purchaser or any of the Purchaser's representative shall carry out any Unauthorised Felling, then the Purchaser shall be deemed to be in breach of this Agreement and Forestry and Land Scotland may in its absolute discretion terminate this Agreement forthwith and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any expenses, costs, losses, liabilities, demands, claims, actions or damages suffered or incurred by Forestry and Land Scotland as a consequence of any Unauthorised Felling, which rights and remedies in terms of this clause 4.14 shall be without prejudice to any of Forestry and Land Scotland's other rights or remedies under this Agreement or otherwise. For the avoidance of any doubt, the Purchaser shall have no rights in or over and no title to the products of any such Unauthorised Felling.
- 4.15 The Purchaser shall ensure or procure that Welfare Facilities are provided at the Sale Area prior to work commencing at such Sale Area.
- 4.16 Subject to due compliance with their obligations under this Agreement, Forestry and Land Scotland grant the Purchaser licence to occupy the Sale Area for the purpose of harvesting and extracting the Products and exercising all other rights granted to the Purchaser in terms of this Agreement (subject to the terms of this Agreement).

5. MANAGING HEALTH and SAFETY

- 5.1 The Purchaser shall comply and shall ensure that any of the Purchaser Representatives shall comply with and observe Health and Safety Law and the following conditions of this clause 5 and shall produce to Forestry and Land Scotland if requested such evidence as Forestry and Land Scotland may require to show that the Purchaser has satisfied such conditions.
- 5.2 All work activity associated with the harvesting and extraction of Products by the Purchaser shall be carried out in accordance with Applicable Law (including Health and Safety Law), and relevant Guidance including FISA Safety Guides and Forestry Commission Practice Note “Managing Public Safety on Harvesting Sites” as the same may be amended, supplemented or replaced from time to time.
- 5.3 The Purchaser (or a Purchaser Representative) shall fulfil the role of FWM. The Purchaser shall ensure the FWM is competent and qualified to manage the health and safety of the specific forestry operations taking place on the Sale Area and have adequate resources to carry out the role. The Purchaser shall procure that the FWM shall be available as and when necessary to receive relevant information from Forestry and Land Scotland in relation to any matters regarding the activities being carried out in and around the Sale Area, and to act upon those accordingly in accordance with the terms of this Agreement.
- 5.4 The FWM will fulfil all the duties described in FISA’s Guidance on Managing Health and Safety in Forestry (Industry Guidance for Forestry Works Manager) including:
- a) Ensuring all risks are planned for and effective controls are in place to reduce them or remove them from the work;
 - b) Commissioning competent Contractors and/or hauliers;
 - c) Ensuring there is effective supervision of the health and safety standards on the Sale Area and/or haulage operations until the End Date and all activity has ceased; and
 - d) Making arrangements for the reporting of incidents, unsafe practices, or dangerous occurrences and share any findings with Forestry and Land Scotland in writing.
- 5.5 At least 7 days before any PCM can take place the Purchaser shall or shall procure that the FWM shall provide Forestry and Land Scotland with a copy of:
- a) An outline risk assessment completed by the FWM taking into account the hazards, constraints and other significant risk associated with the work to be carried out at the Sale Area.
 - b) A suitable and sufficient Sale Area specific risk assessment(s) completed by the Contractor(s) for the work taking place at the Sale

Area and, where appropriate, a method statement and/or safe system of work.

- c) A method statement describing a safe system of work for the management of risks associated with overhead and underground utilities in compliance with FISA Safety Guides, all applicable Health and Safety Executive published guidance and Good Industry Practice.
- d) A suitable emergency plan which complies with the requirements of FISA 802.
- e) Sale Area safety rules.
- f) Evidence of competence for those carrying out the day to day role of FWM.
- g) Evidence of competence for all Purchaser Representatives, Contractors and subcontractors carrying out the works.
- h) Details on how health and safety standards will be monitored and supervised throughout the Term of this Agreement.

5.6 Only when Forestry and Land Scotland are content that the Purchaser has addressed the requirements laid out in clause 5.5 a) to h), shall a PCM take place. The Purchaser and Forestry and Land Scotland shall hold a PCM, presided over by the FWM, and the conclusions of the meeting will be recorded in writing by the FWM.

5.7 Forestry and Land Scotland may, periodically or when required, request evidence (in form and substance satisfactory to Forestry and Land Scotland) that the FWM's duties as set out in this Agreement are being appropriately discharged in line with the arrangements for managing health and safety as agreed during the PCM. Such evidence may include the provision of site diaries, reports of incidents or any other documentation associated with the effective management and supervision of the Sale Area. Upon request in writing this information shall be provided by the Purchaser to Forestry and Land Scotland within 5 Business Days.

5.8 The Purchaser shall adopt a reasonable method of working such that: -

- a) risks to health and safety are eliminated or, where risks cannot be eliminated, are reduced as far as reasonably practicable.
- b) all trees felled shall be severed close to the ground and no more than 20cm in height in accordance with common forestry practice;
- c) the work of felling and extraction is carried out in a systematic and orderly and workmanlike manner as agreed at the PCM; utilising best available techniques and in accordance with Good Industry Practice;
- d) the Felling Order complies with Part 4 of the Schedule and as agreed at the PCM and all felling of Trees is undertaken by or on behalf of the Purchaser in accordance with the Felling Order;
- e) all brushwood and lop and top are treated in accordance with methods as specified in Part 3 and Part 4 of the Schedule; and

- f) the Products are stacked in a safe manner on the Stacking Sites, with the maximum height of the stacks justified by the risk assessment alongside any necessary additional control measures to protect workers or others. Effective measures must be in place to ensure stack safety is appropriately managed until the End Date.
- 5.9 All necessary precautions are to be taken by the Purchaser to prevent wilful, reckless, or negligent damage to any and all Trees and other standing trees remaining on the Sale Area (as set out in the Site Specific Conditions) or in any neighbouring woods or plantations as at the End Date.
- 5.10 The Purchaser shall and shall procure that any of the Purchaser Representatives shall at all times take action that prevents wilful, reckless, intentional, or negligent damage without limitation to any and all buildings, archaeological sites, walls, gates, fences, hedges, drains, watercourses including groundwater, roads, bridges, structures, rides, tracks, vegetation, man, and living organisms.
- 5.11 The Purchaser shall ensure that the Purchaser, and any of the Purchaser Representatives are at all times the persons responsible for complying with all aspects of RIDDOR.
- 5.12 The Purchaser shall and shall procure that any of the Purchaser Representatives shall at all times comply with all Applicable Law and relevant Guidance and in particular, but without prejudice to the generality of the foregoing, shall ensure that: -
- a) Chainsaw operators working on FLS Land must be in possession of either a current certificate(s) of competence issued by an approved awarding body or the current equivalent units or qualifications within a recognised National or Scottish Vocational Qualification. Consolidation of learning prior to formal assessment is acceptable for an interim period up to 6 months when the operator holds a "Record of Training and Achievement", however the Purchaser must agree and implement competent supervision of the consolidating chainsaw operator throughout this period. All chainsaw operators must have and maintain a CPD / record of competence and experience;
 - b) Harvesting, extraction and processor machine operators or other equivalent or related operator working on Forestry and Land Scotland Land must possess a current certificate(s) confirming competence which is derived from the appropriate, recognised National or Scottish Vocational Qualification or other approved qualification which from time to time replaces it, under declaration that, during consolidation training prior to full assessment against a national standard, a valid "Record of Training and Achievement" or the equivalent is an acceptable interim confirmation of competence; and

- c) (subject to (i) any overhead or underground electric lines and/or other utilities in the Sale Area being indicated on the Sale Maps, and (ii) the network operator responsible for any such electricity lines or utilities being listed in Part 3 of the Schedule in accordance with Clause 21.2) the FWM shall discuss with the network operator responsible for any overhead or underground electric lines and/or other utilities in the Sale Area any proposed operations on the Sale Area and shall agree safe working methods and timings with the network operator prior to work starting on the Sale Area and that all persons involved in carrying out work near electrical equipment must be competent and have received adequate instruction as well as training in the correct procedures and precautions such persons must take both in terms of Applicable Law, relevant Guidance and Good Industry Practice, DECLARING THAT Forestry and Land Scotland shall have the right at all times to require that the Purchaser or any Purchaser Representative working within 2 tree lengths plus the vicinity zone of an overhead electric line shall stop work immediately on the Sale Area unless the Purchaser has consulted with the relevant network operator and has a site specific Risk Assessment and Method Statement for the works that incorporates all information provided by the network operator.
- 5.13 The Purchaser shall and shall procure that any Purchaser Representatives shall comply at all times with Good Industry Practice in respect of any activities which may endanger the general public whilst on Forestry and Land Scotland Land and in and around the Authorised Access Routes and the Sale Area. Forestry and Land Scotland shall in accordance with clause 21.2, estimate the potential frequency of incursions to the Authorised Access Routes and the Sale Area by the general public and this shall be indicated in Part 4 of the Schedule. Where the need for a PAMP has been identified by Forestry and Land Scotland, the parties shall agree the terms of any such PAMP and the Purchaser shall comply with any requirements identified in such PAMP and/or provide input in to the PAMP and its delivery.
- 5.14 Where stated in the Sale Catalogue, the Purchaser shall treat with urea the stump of each conifer Tree which the Purchaser fells, immediately after and in any case within 20 minutes of the felling thereof. The necessary materials will be supplied at the cost of Forestry and Land Scotland and at such locations and in such form as specified in Part 3 of the Schedule but the required application of such treatment shall otherwise be at the expense of the Purchaser.
- 5.15 The Purchaser shall not and shall procure that any of the Purchaser Representatives shall not light fires on FLS Land without the express written permission of Forestry and Land Scotland in relation to each individual fire and shall take all reasonable and proper precautions under the direction of Forestry and Land Scotland to prevent the risk of fire on or spreading to or

within the Sale Area or FLS Land or the Purchaser's operations causing fires on or spreading to any adjoining or surrounding ground.

- 5.16 If for any reason not foreseen at the time this Agreement was made Forestry and Land Scotland is required to stop all felling for part or all of the time between the Start Date and the End Date, Forestry and Land Scotland shall, save in an emergency, write to the Purchaser requesting a meeting to discuss an amendment to the terms of this Agreement. Any new terms reasonably agreed as a result of that or any subsequent meeting shall be incorporated in Addenda to this Agreement. Where this clause 5.17 applies, Forestry and Land Scotland shall not be in breach of the Agreement.
- 5.17 No animal, except those employed to remove Products, shall be taken, or allowed on the FLS Land by the Purchaser or any of the Purchaser Representatives without the written consent of Forestry and Land Scotland. Any animals employed to remove Products or brought on to the Forest and Land with Forestry and Land Scotland's consent (which shall include a written consent agreed at the PCM) shall at all times remain the responsibility of the Purchaser and shall be kept under control at all times so as to prevent any injury to any person, property, Protected Species, Priority Species and Habitats and / or the Environment.
- 5.18 No caravans, mobile homes, campervans or equivalent vehicle or tent shall be brought on to the Sale Area or FLS Land without the prior written consent of Forestry and Land Scotland.
- 5.19 The Purchaser shall not offer any reward, emolument, inducement, or incentive whatsoever, to any person in the employment or performing a contract for services on behalf of Forestry and Land Scotland.
- 5.20 The Purchaser shall provide all necessary safety signs, the locations of which shall be agreed at the PCM, and shall ensure that at all times in relation to the Sale Area all necessary safety signs are clearly visible and other necessary measures are taken to warn the public of dangerous works being carried out in the vicinity and to prevent the public from being exposed to any danger emanating from the Sale Area with particular regard being had to likely presence of children and the Purchaser shall immediately replace any such safety signs which are damaged, destroyed or removed. The Purchaser shall ensure that all necessary safety signs are pro-actively maintained and visible throughout the operation of harvesting and extraction and until such time as the uplift and removal of Products is complete in its entirety.
- 5.21 Forestry and Land Scotland shall be entitled to immediately suspend, and serve notice to terminate, the right of any Purchaser Representative, Contractor or Sub-contractor to undertake any activities on or otherwise use the Sale Area or Authorised Access Routes in terms of this Agreement where Forestry and Land Scotland does not consider such Purchaser Representative, Contractor or Sub-contractor as being suitable to comply with the obligations of the Purchaser in terms of this Agreement, and in doing so

will provide the Purchaser with written reasons for doing so. Within 1 Business Day of being notified in writing by Forestry and Land Scotland the Purchaser shall notify Forestry and Land Scotland in writing of any intent to refer the matter to arbitration pursuant to clauses 19.2, 19.3 and 19.4. During any period of suspension and/or upon termination of the use of such Purchaser Representative, Contractor or Sub-contractor, the Purchaser shall ensure or procure that any such Purchaser Representative, Contractor or Sub-contractor shall immediately cease any activities and vacate the Sale Area and Authorised Access Routes upon being required to do so by Forestry and Land Scotland.

- 5.22 Subject to clause 10.7, Forestry and Land Scotland shall be entitled to enter the Sale Area to assess compliance by the Purchaser, and/or any of the Purchaser Representatives, with the provisions of this Agreement or for any other reason. In the event that Forestry and Land Scotland considers it necessary that the Purchaser carry out any remedial operations at or in respect of the Sale Area as a consequence of any act or default of the Purchaser or any of the Purchaser Representatives, and have specified as such in writing within 3 Business Days of entering the Sale Area to assess compliance as aforesaid, then the Purchaser shall carry out such remedial operations to the satisfaction of Forestry and Land Scotland within such timescale as Forestry and Land Scotland (acting reasonably) may specify by written notice to the Purchaser, failing which Forestry and Land Scotland shall have the right to undertake or procure the undertaking of such remedial operations and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any costs, expenses or any other losses or liabilities incurred or suffered by Forestry and Land Scotland in respect of any such remedial operations.
- 5.23 The Purchaser shall have regard at all times to Forestry and Land Scotland's powers and duties under the Forestry and Land Management (Scotland) Act 2018 and other Applicable Law including without limitation the Land Reform (Scotland) Act 2016 and the Scottish Outdoor Access Code and any relevant local legislation and in particular without limitation Forestry and Land Scotland's duty in respect of the conservation and enhancement of natural beauty, the conservation of flora and fauna and geological or physiographical features of special interest, the protection against pollution of any water (including groundwater) and Forestry and Land Scotland's power to provide or assist in the provision of tourist, recreational or sporting facilities.

6. MANAGING THE ENVIRONMENT

- 6.1 The Purchaser shall comply and shall ensure that the Purchaser Representatives will comply with and observe the following provisions of this clause 6 and shall provide to Forestry and Land Scotland if requested such evidence as Forestry and Land Scotland may require to show that the Purchaser has satisfied this provision.

- 6.2 The Purchaser (or the Purchaser Representatives engaged on their behalf) shall fulfil the role of FWM and adopt full and total responsibility for compliance with all Environmental Law, regulation, and relevant policy and guidance. The Purchaser shall ensure the FWM is competent to manage the environmental constraints identified by Forestry and Land Scotland and laid out in the Site Specific Conditions and is competent to identify other constraints arising; and is competent to mitigate risk of harm or damage to the Environment in compliance with Applicable Law and relevant Guidance and in compliance with the environmental and heritage management standards as specified in the most recent version of UKWAS, and the most recent version of the UKFS from time to time.
- 6.3 Pursuant to clause 6.2, the FWM or Environmental Supervisor is responsible for monitoring the effectiveness of mitigation, and for taking remedial action in the event of failure.
- 6.4 Where Forestry and Land Scotland has specified in the Site Specific Conditions the Sale Area to be a Sensitive Site, the Purchaser shall, if requested by Forestry and Land Scotland, be obliged to appoint a suitably-qualified Environmental Supervisor or an ecologist to supervise environmental compliance and to act as the main point of contact with Forestry and Land Scotland and stakeholders during the planning stages and during the time any works are being carried out. Where the Purchaser cannot or does not provide an Environmental Supervisor or an ecologist, Forestry and Land Scotland may agree to undertake the necessary environmental compliance work, but the costs and expenses of such work will be charged to and paid for by the Purchaser at full-cost recovery and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any costs, expenses or any other losses or liabilities incurred or suffered by Forestry and Land Scotland in respect of any such environmental compliance work.
- 6.5 Pursuant to clause 6.4, and in the event that no Environmental Supervisor, ecologist or Forestry and Land Scotland staff member is available to supervise environmental compliance by or on behalf of the Purchaser and to act as the main point of contact with Forestry and Land Scotland in respect of any Sensitive Site, all activity on the Sensitive Site or which could otherwise have an adverse effect on the Sensitive Site (or on any feature located on the Sensitive Site) shall be suspended and such suspension shall remain in force until such time as the matter has been resolved to the satisfaction of Forestry and Land Scotland, failing which Forestry and Land Scotland shall be entitled to terminate this Agreement with immediate effect.
- 6.6 The FWM will be required to fulfil the site-specific duties as laid out in the Confor Guidance on Responsibilities for Environmental Protection in Forestry 2018, including duties relating to:
- a) Using information from Forestry and Land Scotland and other sources to carry out an environmental assessment of the Sale Area.

- b) Obtaining any / all necessary licences and consents required under Applicable Law.
- c) Selecting competent Contractors who will make adequate provision for the protection of the Environment.
- d) Implementing and communicating environmental protection measures with, and to, all interested persons, including those affected by the activity.
- e) Implementing and communicating control measures that must be put in place and communicated to workers or others using the Sale Area, including:
 - Silt traps and/or filter zones to prevent diffuse pollution.
 - Exclusion zones where Protected Species may be present.
 - Working hours and management of any restrictions of lorry movements.
 - Other exclusion zones on site and/or any signage.
 - Provisions to protect private water supplies.
 - Emergency preparedness requirements.
- f) Implementing and communicating these agreed control measures to the Contractor and Purchaser Representatives through:
 - Maps identifying constraints, exclusion zones, access routes and private water supplies.
 - Provision of toolbox talks specific to the site sensitivities.
 - Provision of method statements specific to the site or species.
 - Emergency plans.
 - Setting environmental site rules.
- g) Monitoring environmental protection within the Sale Area and taking action to address any shortfalls or issues which may arise before and during works.

6.7 In accordance with the Scottish Biodiversity Strategy requirement to ensure that productive forests and woodlands deliver increased biodiversity, and the associated Scottish Biodiversity Strategy delivery plans, and the statutory duty of Forestry and Land Scotland to further the conservation of biodiversity, Forestry and Land Scotland reserves the right to request that the FWM or Environmental Supervisor shall:

- a) Take appropriate and proportionate measures, and follow the relevant guidance, to protect and enhance populations of Protected Species and areas of Priority Species and Habitats within the Sale Area and in adjacent areas; including requirements laid out by Forestry and Land Scotland in the Site Specific Conditions, or agreed during the PCM.
- b) Take appropriate and proportionate measures, and follow all SF Guidance, to minimise damage to soils and soil biodiversity;

including Sale Area-specific requests or information laid out by Forestry and Land Scotland in the Site Specific Conditions, or agreed during the PCM.

- c) Comply with Deadwood Guidance (including retaining deadwood features identified by Forestry and Land Scotland in the Site Specific Conditions or during the PCM), and/or taking 'obvious opportunities' as specified in the Forestry and Land Scotland Deadwood Guidance; and following Sale Area-specific requests or information laid out by Forestry and Land Scotland in the site-specific conditions, or agreed during the PCM,

and the Purchaser shall and shall procure that the FWM and/or Environmental Supervisor shall comply with any such request made by Forestry and Land Scotland.

- 6.8 In accordance with the Climate Change Plan and SF Guidance, the FWM or Environmental Supervisor shall take appropriate and proportionate measures to minimise soil damage and thereby protect carbon stocks.
- 6.9 The FWM or Environmental Supervisor shall take all necessary measures to avoid disturbance of Protected Species by the Purchaser or any Purchaser Representative in contravention of the Wildlife Protection Legislation.
- 6.10 Except only to the extent permitted under the Wildlife Protection Legislation, the FWM or Environmental Supervisor shall take all necessary measures to (i) avoid damage to, or destruction of, or disturbance of, Resting Places and breeding sites used by Protected Species and (ii) avoid obstructing access to a breeding site or Resting Place, or otherwise deny a Protected Species the use of a breeding site or Resting Place.
- 6.11 Any contraventions of Applicable Law pertaining to Protected Species must be reported by the Purchaser to Police Scotland and Forestry and Land Scotland immediately.
- 6.12 Exceptions to clause 6.6(b) are only permissible under licence from NatureScot. The FWM or Environmental Supervisor will be responsible for obtaining any such licences.
- 6.13 Where Forestry and Land Scotland holds a licence from NatureScot and where Forestry and Land Scotland agree in writing, the FWM or Environmental Supervisor may if so authorised by Forestry and Land Scotland in writing operate as an agent of Forestry and Land Scotland under such licence in liaison with Forestry and Land Scotland and/or the named Forestry and Land Scotland licence holder, which authorisation may be subject to such terms and conditions as Forestry and Land Scotland may from time to time determine. In the event that the FWM or Environmental Supervisor is authorised to operate as an agent of Forestry and Land Scotland in terms of this clause 6.13 then Forestry and Land Scotland shall have no responsibility

or liability of whatever nature, whether arising in contract (to include, without limitation, under any relevant indemnity), delict, negligence, breach of statutory duty or otherwise, for the acts or omissions of the FWM or Environmental Supervisor while the FWM or Environmental Supervisor is acting in such capacity and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any costs, expenses, damages, claims, proceedings, demands, actions or any other losses or liabilities suffered or incurred by Forestry and Land Scotland as a consequence of the acts or omissions of the FWM or Environmental Supervisor while acting in such capacity.

- 6.14 Any site-specific mitigations to mitigate risk of environmental harm or damage at, in or to the Sale Area in terms of this clause 6 must be based upon and be compliant with Applicable Law, relevant Guidance and Good Industry Practice.
- 6.15 The deployment of any specialist site-specific mitigation in terms of this clause 6 shall be done only with the prior written permission of the Forestry and Land Scotland Contract Manager, provided always that the grant of any such permission by the Forestry and Land Scotland Contract Manager shall not relieve the Purchaser of any of its obligations in terms of this Agreement. Specialist site-specific mitigation includes, but is not restricted to: pre-emptive felling of nests, dreys or other resting places and breeding sites outwith breeding season; erection of nest platforms; erection of nest boxes or bat boxes; use of badger fencing and gates; diversionary feeding; and the use of scaring techniques and other deterrent methods. Forestry and Land Scotland reserves the right (acting reasonably) to refuse permission for any such specialist mitigation activities or to attach such terms and conditions to any such permission granted in terms of this clause 6.15 as Forestry and Land Scotland may from time to time reasonably determine.
- 6.16 Following liaison with the Forestry and Land Scotland Contract Manager, the FWM or Environmental Supervisor, or their suitably qualified Sub-contractors, can carry out ecological field surveys as necessary on FLS Land contiguous with the Sale Area, or up to 1000m distant from the Sale Area, to ascertain the presence or absence of Protected Species and / or Priority Species and Habitats.
- 6.17 All known information on environmental constraints held by Forestry and Land Scotland for the Sale Area, and within a 1000m buffer around the Sale Area shall be detailed in the Site Specific Conditions. Any additional information on environmental constraints identified by Forestry and Land Scotland prior to the Commencement Date shall be notified to the Purchaser at the PCM.
- 6.18 The deployment of camera traps, drones and acoustic monitoring devices and other recording devices outwith the Sale Area must be compliant with Applicable Law and relevant Guidance, and can only be done in liaison with the Forestry and Land Scotland Contract Manager.

- 6.19 All environmental data on Protected Species and Priority Species and Habitats collected by any Purchaser Representative during the Term of this Agreement, within and outwith the Sale Area must be shared with Forestry and Land Scotland prior to the Completion Certificate being issued.
- 6.20 Forestry and Land Scotland may, periodically or when required, request evidence in form and substance satisfactory to Forestry and Land Scotland that the FWM's duties as set out in this Agreement are being appropriately discharged in line with the arrangements for managing the Environment as agreed during the PCM. Such evidence may include the provision of site diaries, reports of incident or any other documentation associated with the effective management and supervision of the work on site. Upon request in writing this information shall be provided by the Purchaser within 5 Business Days.

7. BIOSECURITY

- 7.1 The Purchaser shall comply and shall ensure that the Purchaser Representatives comply with and observe the following conditions and shall produce to Forestry and Land Scotland if requested such evidence as Forestry and Land Scotland may require to show that the Purchaser has satisfied this provision. Biosecurity requirements are detailed in UKFS and UKWAS. Specific Biosecurity requirements to Scotland including requirements for particular pests or diseases can be obtained from the Scottish Forestry website.
- 7.2 The Purchaser shall be responsible and shall ensure that the Purchaser Representatives are responsible for all Biosecurity practices, including cleaning footwear, vehicles, and kit, and particularly when moving between different forests and woodlands so to avoid transferring any pest or disease from an infected site to an uninfected site. All parties and the Purchaser Representatives will discuss, agree, and record Biosecurity measures at the PCM for the Sale Area.
- 7.3 Where the Purchaser is operating within any part of the Sale Area which is covered by a SPHN the Purchaser shall and shall procure that all Purchaser Representatives shall comply with the specific requirements of such SPHN and the Purchaser shall further ensure that (i) any machines that go off road at any part of the Sale Area which is covered by a SPHN are pressure washed before use at any other Sale Area and that Forest Roads are well maintained throughout the period of the SPHN by ensuring forwarders stay off the Forest Road where feasible and (ii) Stacking Sites are kept clear and free of debris.
- 7.4 The Purchaser shall install signage to advise visitors of any relevant pest or disease.

- 7.5 The Purchaser must comply with Scottish Forestry's Biosecurity requirements for wood movement and processing licences.
- 7.6 The Purchaser must comply with any current Biosecurity initiatives set by Forestry and Land Scotland or Scottish Forestry and notified to the Purchaser from time to time whether directly or via publication on the Confor website.
- 7.7 The Purchaser must report any suspect pests or diseases to Forestry and Land Scotland and Scottish Forestry immediately upon becoming aware of the same.

8. WATER MANAGEMENT

- 8.1 The Purchaser shall ensure that any Purchaser Representative shall comply with all legal requirements and with Good Industry Practice pertaining to water management, including the Forestry and Water Scotland Initiative (or any subsequent initiative) published by Confor and The Water Environment (Controlled Activities) (Scotland) Regulations 2011.
- 8.2 In the event of a compliance check by Scottish Forestry or any other regulatory or advisory body of competent jurisdiction or authority, the Purchaser shall produce to Forestry and Land Scotland if requested such evidence as Forestry and Land Scotland may require to show that the Purchaser is compliant with the provisions relating to water management in accordance with the UKFS.
- 8.3 The Purchaser shall ensure that operational planning and implementation at or in connection with the Sale Area will be undertaken to UKFS to avoid sediment pollution to water courses.
- 8.4 The Purchaser shall ensure that operational planning and implementation at or in connection with the Sale Area will be undertaken to avoid fuel/oil pollution to enter water courses. No unauthorised or unlawful discharges are made as a result of the operations into any drains, sewers, controlled waters, or other waters either in contravention of Environmental Law or which may cause damage to people, or any other living organism, or the Environment.
- 8.5 Pursuant to clauses 9.2, 9.3 and 9.6 Purchasers shall ensure than any civil engineering work that has been authorised by Forestry and Land Scotland is managed to appropriate water protection standards in accordance with Applicable Law, relevant Guidance and Good Industry Practice.
- 8.6 The Purchaser shall limit machine trafficking and operations near water/buffers as prescribed in Forest and Water Scotland Initiative (or any subsequent initiative) published by Confor.
- 8.7 The Purchaser must follow the published agreement between Scottish Water and Forestry Commission Scotland (2017) titled "Forestry activities near SW

assets” or any subsequent industry Guidance. Where the Sale Area is in a source catchment, or near a Scottish Water asset, as specified in the Site Specific Conditions, the Purchaser must consult with Scottish water in advance of any operation on the Sale Area and must follow Scottish Water Guidance on “Precautions to protect drinking water and Scottish Water assets during forestry activities”. The Purchaser must liaise with Scottish Water and comply with all requests and/or directions made by Scottish Water in relation to the Sale Area or any part thereof. Public water supplies must be protected and the Purchaser must ensure that all Purchaser Representatives involved in any work activity within the Sale Area are aware of the supply and follow the required protection measures.

- 8.8 The Purchaser must adhere to Good Industry Practice for private water supplies – ensuring all supplies potentially affected by the Purchaser’s felling and extraction activities in terms of this Agreement are identified. In addition, the Purchaser shall consult with each private water supply user, identify the abstraction point and infrastructure and set appropriate protection zones and protection measures for each. The Purchaser shall ensure that all persons involved in any work activity within the Sale Area are aware of the supply and follow the specific agreed protection measures.
- 8.9 The Purchaser must complete a pollution contingency plan and pollution control supplies must be present at the Sale Area at all times. The Purchaser shall procure that all relevant persons follow these appropriately.
- 8.10 The Purchaser must report any pollution incident to Forestry and Land Scotland and SEPA.
- 8.11 All water data collected by the Purchaser or any Purchaser Representative during the Term of this Agreement, within and outwith the Sale Area must be shared by the Purchaser with Forestry and Land Scotland prior to the Completion Certificate being issued.

9. MAINTAINING and REPAIRING AUTHORISED ACCESS ROUTES and FOREST ROADS WITHIN THE SALE AREA

- 9.1 In the event that all or part of the Authorised Access Routes require to be repaired or maintained, Forestry and Land Scotland shall be entitled to close all or part of the Authorised Access Routes while the work is carried out, provided always that, in that event, Forestry and Land Scotland shall (save in case of an emergency) use reasonable endeavours to give the Purchaser at least five Business Days' notice of any such closure.
- 9.2 Where, through no fault of the Purchaser or any Purchaser Representatives, any of the Forest Roads within the Sale Area or Authorised Access Routes requires repair Forestry and Land Scotland shall as soon as is reasonably practicable after that fact has been made known to Forestry and Land Scotland endeavour to repair such damaged part or parts to the standard of

the road classification as stated in Part 4 of the Schedule, or in the event Forestry and Land Scotland are unable to repair such damaged part or parts within a reasonable period both parties may agree that the Purchaser may undertake any such repairs in terms of clause 9.9

- 9.3 In the event that all or part of any of the Forest Roads within the Sale Area or Authorised Access Routes require to be repaired or maintained as a result of any negligence of the Purchaser or any Purchaser Representative, or any breach of this Agreement by the Purchaser, then the Purchaser shall, upon receipt of a notice from Forestry and Land Scotland, carry out such repairs and / or maintenance as are specified in that notice within such timescales as Forestry and Land Scotland may reasonably require and to the reasonable satisfaction of Forestry and Land Scotland, failing which, and after consultation with the FWM, Forestry and Land Scotland shall be entitled to undertake such repairs and / or maintenance or instruct a third party to do so, in which case the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of the costs, expenses or any other losses or liabilities suffered or incurred by Forestry and Land Scotland in respect of such repairs and / or maintenance.
- 9.4 Forestry and Land Scotland will provide the Purchaser with a copy of the Forest Road specification. Any repairs carried out by the Purchaser due to negligence on the part of the Purchaser or any of the Purchaser Representatives or any breach of this Agreement by the Purchaser will be carried out to the road specification and return the Forest Road to the condition prior to the negligent act(s).
- 9.5 Under no circumstances shall the Purchaser be permitted to change the footprint or route of any Forest Road.
- 9.6 Forestry and Land Scotland will not commit to installing further harvesting facilities beyond those at the Sale Area at the Commencement Date, unless otherwise stated in the Site Specific Conditions and/or agreed in writing at the PCM. Should the Purchaser wish to construct extra facilities at the Purchaser's own expense, they must provide a detailed specification to Forestry and Land Scotland in advance and may only proceed subject to planning approvals being granted and written approval from Forestry and Land Scotland.
- 9.7 The Purchaser will not be permitted to access Forestry and Land Scotland quarries and any stone requirements must be imported from a commercial quarry, save as otherwise expressly approved in writing by Forestry and Land Scotland for road maintenance and/or repairs undertaken in terms of clause 9.9.
- 9.8 Stacking of Products within 5m of road culverts will not be permitted without prior written consent from Forestry and Land Scotland. Where the Sale Area has limited stacking space, this shall be identified by Forestry and Land

Scotland in the Site Specific Conditions and stacking arrangements agreed in writing by the parties at the PCM

- 9.9 For road maintenance and/or repairs undertaken within the Sale Area or to any of the Authorised Access Routes by the Purchaser in terms of clause 9.2 or 9.3, or for the construction of extra facilities within the Sale Area by the Purchaser in terms of clause 9.6, and in accordance with CDM Regulations 2015:
- a) Forestry and Land Scotland will provide the Purchaser with all known Sale Area and/or Authorised Access Route information prior to or upon the date of commencement of the relevant works;
 - b) The Purchaser will provide Forestry and Land Scotland with at least 5 Business Days' written notice (save in case of an emergency when as much notice as reasonably practicable shall be provided) of any works that will affect Forestry and Land Scotland access through the Sale Area or if added vehicle movement will impact upon Authorised Access Routes;
 - c) The Purchaser shall not carry out any road maintenance and/or repair works without prior written approval of Forestry and Land Scotland, and FLS shall be entitled to impose conditions on any such written approval to include agreement of the overall working costs and invoicing arrangements pertaining to clause 9.2 and 9.3 only;
 - d) Forestry and Land Scotland will subsequently provide any further relevant information to the Purchaser in order for the Purchaser to take on client role for any works in accordance with CDM Regulations 2015; and
 - e) The Purchaser shall be the client for any works in terms of the CDM Regulations 2015 and shall appoint relevant persons into duty holder positions in terms thereof.
- 9.10 Pursuant to clauses 9.2 and 9.3 for road maintenance and/or repair carried out by Forestry and Land Scotland on Forest Roads within the Sale Area or Authorised Access Routes, the Purchaser will be required to provide Forestry and Land Scotland with all relevant information reasonably required by Forestry and Land Scotland as soon as reasonably practicable in order to allow Forestry and Land Scotland to safely plan and carry out road maintenance and/or repair works in accordance with the CDM Regulations 2015.
- 9.11 Notwithstanding clauses 9.9, the Purchaser will not be permitted to and shall not carry out repairs on Forestry and Land Scotland bridges, culverts that require a SEPA registration or any other structure. If, as a result of any negligence of the Purchaser or any of the Purchaser Representatives or breach of this Agreement by the Purchaser, there is any damage to any such bridge, culvert or other structure as a consequence of any road maintenance and/or repair works carried out by or on behalf of the Purchaser, Forestry and Land Scotland shall be entitled to repair and make good such damage or

instruct a third party to do so, in which case the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of the costs, expenses or any other losses or liabilities suffered or incurred by Forestry and Land Scotland in respect of such damage. Forestry and Land Scotland have the right to restrict access across any bridges damaged until deemed safe by the Forestry and Land Scotland Contract Manager.

- 9.12 Following completion of all harvesting and haulage operations, the Purchaser shall ensure that all rides, tracks and footpaths used by the Purchaser or any Purchaser Representative during the Term of this Agreement shall be reinstated by the Purchaser to the condition agreed with Forestry and Land Scotland at the Start Date. In the event that the Purchaser fails to comply with its reinstatement obligations in terms of this clause 9.12, Forestry and Land Scotland shall have the right to undertake such reinstatement works as it considers necessary to reinstate any rides, tracks and footpaths to the same condition and specification as they were in at the Start Date and the Purchaser shall indemnify and keep indemnified Forestry and Land Scotland in respect of any costs, expenses or any other losses or liabilities incurred or suffered by Forestry and Land Scotland in respect of any such works.

10. SITE STANDARD VISITS and REPORTING

- 10.1 The FWM must undertake FWM Routine Site Visits, the frequency of which will be determined by the FWM with due consideration to Sensitive Sites.
- 10.2 Following completion of a FWM Routine Site Visit or within 2 Business Days of the end of each calendar month the Purchaser must provide to the Forestry and Land Scotland Contract Manager a FWM site visit progress report and supporting evidence that demonstrates ongoing compliance with the provisions of this Agreement relative to the Sale Area, which progress report and supporting evidence shall include:
- a) Confirmation that the health and safety of the specific forestry operations taking place in the Sale Area remain compliant with the site specific risk assessment and where appropriate, the method statement and/or safe system of working;
 - b) Confirmation that environmental site standards and any control measures to mitigate risk remain compliant with all Applicable Law and relevant Guidance;
 - c) Confirmation that any Purchaser Representative working on site has been briefed / provided with all necessary Sale Area specific information;
 - d) Confirmation that controls remain sufficient as the Sale Area changes and work progresses; and
 - e) A map depicting the area felled to such date.
- 10.3 Pursuant to clause 10.2, and in the event of any instances of non-compliance with the provisions of this Agreement having been identified in the FWM site

visit progress report, the Purchaser shall procure that the FWM shall ensure that action is taken to address such instances of non-compliance, adapt work controls or stop work if necessary and within 1 Business Day update the Forestry and Land Scotland Contract Manager in writing of any such actions.

- 10.4 Following completion of a stocktake by the FWM or any of the Purchaser Representatives, and within 2 Business Days of the end of each calendar month, the Purchaser must provide Forestry and Land Scotland with the estimated quantity of roadside stock and stump stock using the Forestry and Land Scotland mobile stock application or any alternative method agreed by the parties at the PCM.
- 10.5 Within 2 Business Days of the end of each calendar month and on the End Date the Purchaser shall provide Forestry and Land Scotland with the Harvester Production Files and Stem Files reports in a format compatible with Forestry and Land Scotland data standards or any alternative format or method agreed by the parties at the PCM.
- 10.6 The Forestry and Land Scotland Contract Manager or FLS Representative will undertake Forestry and Land Scotland Site Monitoring Visits and will, using the RAG System, (i) allocate a green, amber or red rating to the Sale Area and/or any operations being undertaken by or on behalf of the Purchaser for each and every visit and (ii) provide a site monitoring report to the FWM within 2 Business Days of the relevant Forestry and Land Scotland Site Monitoring Visit.
- 10.7 Any other representative of Forestry and Land Scotland required to undertake a site visit of any nature must be accompanied by the Forestry and Land Scotland Contract Manager or FLS Representative, and by prior arrangement with the FWM.
- 10.8 In the event of Forestry and Land Scotland allocating an amber rating in terms of clause 10.6 to the Sale Area or for any specific occurrence(s) and/or breach that contravenes the Site Specific Conditions, and within 2 Business Days of being notified in writing by Forestry and Land Scotland of such amber rating in a site monitoring report issued in terms of clause 10.6, the Purchaser shall procure that the FWM shall either (i) respond to the Forestry and Land Scotland Contract Manager with confirmation of acceptance of the terms of that report and any matters referred to therein and proposals to remedy any specific occurrence(s) and/or breach identified in that report within a timebound period, or (ii) notify Forestry and Land Scotland of the intent to appeal. In either case, the Purchaser may continue to work at the Sale Area while it remedies any specific occurrence(s) and/or breach identified in the relevant report but only with the express approval in writing from Forestry and Land Scotland, which approval may be withdrawn at any point in time.
- 10.9 In the event of Forestry and Land Scotland allocating a red rating in terms of clause 10.6 for the Sale Area, or alternatively for any specific occurrence(s) and/or breach that directly relates to the Site Specific Conditions, and having

being notified in writing by Forestry and Land Scotland of such red rating in a site monitoring report issued in terms of clause 10.6, all activity on the Sale Area or activity directly relating to the specific occurrence(s) and/or breach shall be suspended with immediate effect for such period as Forestry and Land Scotland (acting reasonably) may at its sole discretion determine, having regard to the nature and extent of any specific occurrence(s) and/or breach identified in the relevant report, and that until such time as such specific occurrence(s) and/or breach have been resolved to the satisfaction of Forestry and Land Scotland.

10.10 Within 1 Business Day of being notified in writing by Forestry and Land Scotland of a red rating in a site monitoring report issued in terms of clause 10.6, the FWM shall either (i) respond to the Forestry and Land Scotland Contract Manager with confirmation of acceptance of the terms of that report and any matters referred to therein and proposals to remedy any specific occurrence(s) and/or breach identified in that report within a timebound period, or (ii) notify Forestry and Land Scotland of the intent to appeal. In either case, the Purchaser may continue to work within the Sale Area while it remedies any specific occurrence(s) and/or breach identified in the relevant report but only with the express approval in writing from Forestry and Land Scotland, which approval may be withdrawn at any point in time.

10.11 In the event that:

- a) the FWM has failed to respond to (i) a red rating within 1 Business Day in terms of clause 10.10 or (ii) an amber rating within 2 Business Days in terms of clause 10.8; or
- b) Forestry and Land Scotland withdraws its approval to the Purchaser continuing to work at the Sale Area while the Purchaser remedies any specific occurrence(s) and/or breach identified in the relevant site monitoring report issued in terms of clause 10.6,

the Purchaser shall procure that all activity on the Sale Area is suspended with immediate effect for such period as Forestry and Land Scotland (acting reasonably) may at its sole discretion determine, having regard to the nature and extent of any specific occurrence(s) and/or breach identified in the relevant report, and that until such time as such specific occurrence(s) and/or breach have been resolved to the satisfaction of Forestry and Land Scotland.

10.12 Where the Purchaser has exercised the right of appeal in respect of the allocation of an amber or red rating in relation to the Sale Area and/or to any specific occurrence(s) and/or breach in terms of this clause 10, the Forestry and Land Scotland Operations Manager shall review the evidence and have regard to any representation made by the Purchaser before reaching a decision to uphold or revoke an amber or red rating. The decision of the Forestry and Land Scotland Operations Manager will be full and final and binding upon the parties. .

- 10.13 Where the Purchaser has failed to provide satisfactory resolution of any amber or red ratings in terms of this Agreement or 2 red ratings have been upheld by the Forestry and Land Scotland Operations Manager in terms of clause 10.12, Forestry and Land Scotland may suspend this Agreement and serve a notice of intent to terminate this Agreement and recover the Sale Area for completion of harvesting work by Forestry and Land Scotland's harvesting fleet or harvesting contractors or by another standing sale purchaser. The Purchaser may exercise their right to appeal any notice of termination under clauses 19.1 to 19.4 of this Agreement within 10 Business Days of the date of such notice of termination (time being of the essence). If the Purchaser exercises such right to appeal and such appeal is not successful or if the Purchaser does not exercise such right of appeal, Forestry and Land Scotland may either retain or resell the Retained Products both on an open market basis which have been paid for and provided that any other claims against the Purchaser arising in relation to the subject matter of this Agreement have been settled, Forestry and Land Scotland shall reimburse to the Purchaser the lesser of the remainder of any sums received from the Purchaser for any Retained Products and/or received on reselling any Retained Products less all costs, expenses, fees and losses directly and naturally resulting in the ordinary course of events. In the event of such costs and losses exceeding the total sum received by Forestry and Land Scotland for the Retained Products the Purchaser shall on demand pay to Forestry and Land Scotland the amount by which said costs and losses exceed said total sum.
- 10.14 In the event of litigation, Forestry and Land Scotland may present or be required to present all documentary evidence of red, amber and green ratings and Sale Area specific reports exchanged between both parties relating to this Agreement.

11. DURATION AND TERMINATION

- 11.1 This Agreement shall come into force on the Commencement Date and time is of the essence.
- 11.2 In the event that access and/or egress to or from the Sale Area and / or Authorised Access Routes has been curtailed as a consequence of a road closure in terms of clause 9.1 or repairs in terms of clause 9.2, Forestry and Land Scotland will agree to extend the End Date and applicable timescales provided for in this Agreement by a period equivalent to the length of time that access and/or egress is curtailed and/or the duration of such road closure and to specify a new End Date, provided always that:
- a) no such extension shall be granted in the event that access and/or egress to or from the Sale Area and / or Authorised Access Routes has been curtailed as a consequence of the Purchaser requiring to undertake repair and / or maintenance of any Authorised Access Route in terms of clause 9.3 or the Purchaser failing to comply with its obligations in terms of clause

9.3 and Forestry and Land Scotland requiring to undertake such repair and / or maintenance; and

- b) the End Date shall not be extended, whether by one or more extensions, for a period of more than three months without the prior written approval of the Head of Marketing and Sales of Forestry and Land Scotland from time to time.
- 11.3 If either party wishes to change the End Date, that party must notify the other party in writing a minimum of ten Business Days before the End Date to discuss the change. Forestry and Land Scotland shall have absolute discretion whether to refuse such request or grant the same on such terms and conditions as Forestry and Land Scotland shall think fit, provided always that the End Date shall not be extended, whether by one or more extensions, for a period of more than three months without the prior written approval of the Head of Marketing and Sales of Forestry and Land Scotland from time to time.
- 11.4 Where the End Date has been extended in terms of clause 11.2 or amended in terms of clause 11.3, then should the End Date as so amended or extended elapse and any Products remain at Stacking Sites that have not been uplifted and removed by the Purchaser in accordance with the terms of this Agreement then Forestry and Land Scotland shall have the right to invoice at roadside for the full and final quantity of Products that Forestry and Land Scotland has made available for uplift and removal by the Purchaser in terms of this Agreement.
- 11.5 Where the Purchaser fails to pay in full by the stated due date for payment for the raised invoice referred to in clause 11.4, or has paid in full the raised invoice but has failed to uplift and remove all remaining Products at any Stacking Site(s) within 1 month of the stated due date, or such later date as may be agreed in writing by Forestry and Land Scotland, Forestry and Land Scotland reserve the right to retain all such Products and make them available for resale, in which case the Purchaser shall on demand indemnify and keep indemnified Forestry and Land Scotland in respect of any losses, costs, expenses or other liabilities suffered or incurred by Forestry and Land Scotland as a result of the relevant Products being sold at a price lower than the Price payable by the Purchaser in respect of such Products in terms of this Agreement.
- 11.6 Any change to the End Date shall be recorded in an addendum to this Agreement, prepared by Forestry and Land Scotland and issued to the Purchaser within 2 Business Days following discussion between the parties. The Purchaser shall have 7 Business Days to respond to such addendum, failing which the Purchaser will be deemed to have accepted the change to the End Date.
- 11.7 Forestry and Land Scotland shall be entitled forthwith to terminate this Agreement with immediate effect by written notice to the Purchaser if the

Purchaser or any Purchaser Representative commits any material breach of this Agreement.

11.8 In the event that the Sale Area or any part thereof is affected by fire or windblown damage such that the Purchaser cannot reasonably fell and remove Products therefrom, then either party shall be entitled to:

a) request an extension to the End Date in accordance with the terms of clause 11.3, unless the original Start Date has already been delayed or deferred on the part of the Purchaser or this Agreement has been extended beyond the original End Date in accordance with the terms of this Agreement, in which case there shall be no further extension to the End Date in terms of this clause 11.8; or

b) terminate this Agreement with immediate effect by notice to the other party.

11.9 Either party shall be entitled forthwith to renegotiate or terminate this Agreement by written notice to the other if: -

a) the holder of any security takes possession or a receiver is appointed over any of the property or assets of the other party; or

b) the other party makes any voluntary arrangement with its creditors or becomes subject to any administration order; or

c) the other party goes into liquidation (except for the purposes of amalgamation or reconstruction and in such manner that the company resulting therefrom effectively agrees to be bound by or assume the obligations imposed on the other party under this Agreement); or

d) that part of the FLS Land covered by this Agreement from which the Products are to be produced is the subject of serious fire or serious windblown damage such that it cannot viably be used as a Sale Area, unless the original Start Date has been delayed or deferred for reasons solely attributable to the Purchaser or this Agreement has been extended beyond the original End Date, in which case Forestry and Land Scotland will not enter into a renegotiation; or

e) the other party ceases to carry on business.

11.10 Forestry and Land Scotland shall be entitled to terminate this Agreement on giving 3 months written notice to the Purchaser in the event of a breach of any term of this Agreement by the Purchaser, not being a breach referred to in clauses 11.7 or 11.9 above, save that in the case of a remediable breach (as that expression is defined in clause 11.11) the Purchaser shall, following receipt of a written notice giving particulars of the remediable breach and requiring it to be remedied within a stated period, so remedy that remediable breach; if the Purchaser does not remedy the remediable breach within that stated period or within that stated period commits a second similar remediable

breach, Forestry and Land Scotland shall be entitled to terminate this Agreement forthwith.

- 11.11 A breach shall be considered to be a remediable breach if the party in breach can comply with the provision in question in all respects other than as to the time of performance (provided that in respect of that matter Forestry and Land Scotland has in its absolute discretion agreed time of performance shall no longer be of the essence).
- 11.12 Upon termination of the Agreement whether by written notice or expiry of time, the Purchaser shall immediately cease the felling and removal of Products but Forestry and Land Scotland may, at its discretion, allow the Purchaser a further period in which to remove any Products felled prior to such termination on payment for them.
- 11.13 On the expiry of any further period granted in terms of clause 11.12, any Products remaining on FLS Land shall, if title has passed to the Purchaser, vest in and become the property of Forestry and Land Scotland. Forestry and Land Scotland will be entitled either to retain or resell any Retained Products both on an open market basis which have been paid and provided that any other claims against the Purchaser arising in relation to the subject matter of this Agreement have been settled, Forestry and Land Scotland shall reimburse to the Purchaser the lesser of the remainder of any sums received from the Purchaser for any Retained Products and/or received on reselling any Retained Products less all costs, expenses, fees and losses directly and naturally resulting in the ordinary course of events. In the event of such costs and losses exceeding the total sum received by Forestry and Land Scotland for the Retained Products the Purchaser shall on demand pay to Forestry and Land Scotland the amount by which said costs and losses exceed said total sum.
- 11.14 Prior to the termination of the Agreement the Purchaser shall remove any buildings, erections, or equipment the Purchaser may have placed on FLS Land and in respect of which there is no occupancy agreement with Forestry and Land Scotland. Should the Purchaser fail to remove such buildings, erections or equipment, Forestry and Land Scotland may retain or remove and dispose of them as it thinks fit and the Purchaser shall on demand reimburse Forestry and Land Scotland for all costs incurred in their removal and disposal and making good any damage resulting therefrom.
- 11.15 The right to terminate this Agreement pursuant to clause 11 shall be without prejudice to any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

12. REMOVAL OF THE PRODUCTS

- 12.1 The Purchaser shall provide Forestry and Land Scotland with a Harvesting Production Plan at least 7 days prior to the date of the PCM, as the same may

be amended from time to time as notified by the Purchaser in writing and agreed by Forestry and Land Scotland.

- 12.2 The Harvesting Production Plan shall be agreed between the parties at the PCM. The Purchaser shall, within 28 days from the Start Date, commence the felling and extraction to roadside and the uplift and removal of the Products in accordance with the terms of the Harvesting Production Plan or, as the case may be, a Harvesting Recovery Plan.
- 12.3 In the event that the Harvesting Production Plan is not agreed between the parties at least 7 Business Days prior to the Start Date, then Forestry and Land Scotland shall be entitled at its sole discretion (acting reasonably) to determine the Harvesting Production Plan and to amend the same from time to time, in which case it shall notify the Purchaser in writing. The Purchaser shall comply with the Harvesting Production Plan as determined or amended by Forestry and Land Scotland in terms of this clause 12.3.
- 12.4 The Purchaser shall, prior to the Start Date, notify Forestry and Land Scotland in writing of the haulage Contractor(s) and / or any other Purchaser Representative(s) authorised by the Purchaser to access the Sale Area for the uplift and removal of the Products of in terms of this Agreement. In the event that the Purchaser has failed to notify Forestry and Land Scotland of the relevant haulage Contractor(s) and / or any other Purchaser Representatives prior to the Start Date, Forestry and Land Scotland shall be entitled at its sole discretion to defer the Start Date for a period of up to 28 days, in which case clause 12.11 shall apply.
- 12.5 The Purchaser shall, in its capacity as FWM for the haulage of timber and in accordance with applicable FISA Safety Guides: provide Sale Area specific information and contract maps to the haulage Contractor(s) and / or any other Purchaser Representative(s) authorised by the Purchaser to access the Sale Area for the uplift and removal of the Products; specify health and safety measures with which such haulage Contractor(s) and / or any other Purchaser Representative(s) must comply; and ensure arrangements are in place for the reporting of incidents, unsafe practices or dangerous occurrences.
- 12.6 Pursuant to clause 12.5, and immediately upon the completion of any uplift and removal of the Products, the Purchaser shall or shall procure that a Purchaser Representative shall ensure that the Stacking Site has been left in such a manner as to facilitate the ongoing safe removal of Products and the overall stability of the Stacking Site(s) and the Products thereat are left in such a manner so as to not endanger any person(s) or the Environment. Without prejudice to the generality of the foregoing, the Purchaser shall in particular ensure that Products are stacked at safe stacking heights relevant to the conditions, leaving stable edges and avoiding leaning stack faces or overhanging billets. In the event that the Purchaser or any Purchaser's Representative fails to comply with this clause 12.6 Forestry and Land Scotland shall be entitled to terminate this Agreement with immediate effect.

- 12.7 The Purchaser shall be required to notify Forestry and Land Scotland in writing of any change to the identity of the haulage contractor(s) and / or any other Purchaser Representative(s) authorised by the Purchaser to access the Sale Area for the uplift and removal of the Products throughout the length of this Agreement. In the event that the Purchaser fails to notify Forestry and Land Scotland of any such change in writing, prior to the date of a Scheduled uplift in terms of the Harvesting Production Plan and/or any Unauthorised Representative then the Purchaser's rights to uplift and remove Products in terms hereof shall be suspended for a number of Business Days equal to the number of uplifts or attempted uplifts made by any Unauthorised Representative, which period of suspension shall commence on the next Business Day immediately following the date of the relevant access or attempted access by the Unauthorised Representative(s). In the event that the Purchaser or any Purchaser Representative fails to comply with this clause, then clause 12.16 and 12.17 shall apply.
- 12.8 For the purposes of this Agreement only and subject to the terms of this Agreement, Forestry and Land Scotland shall: Subject to compliance with the Site Specific Conditions and all other obligations imposed on the Purchaser in terms of this Agreement, allow the Purchaser access to and egress from the Stacking Sites using the Authorised Access Routes, to uplift and remove the Products, and subject to those Products being stacked in such a manner as will facilitate the safe removal of the Products by the Purchaser from the Stacking Sites using the Authorised Access Routes.
- 12.9 The Purchaser may defer :
- a) the commencement of felling and extraction to roadside for a period of up to 28 days from the Start Date or to such later date and time as may be approved in writing by the Head of Marketing and Sales of Forestry and Land Scotland from time to time; and/or
 - b) the commencement of uplift and removal of the Products for a period of up to 28 days from the Start Date, or, in the event of uplift and removal having occurred, for a period up to 28 days from the date of the most recent uplift and removal having occurred, or to such later date and time as may be approved in writing by the Head of Marketing and Sales of Forestry and Land Scotland from time to time.
- 12.10 In the event that the Purchaser has failed to commence felling and extraction to roadside in accordance with the timescales specified in clause 12.9 (a) then Forestry and Land Scotland shall be entitled to exercise its rights under clause 12.11 to terminate this Agreement.
- 12.11 In the event that the Purchaser fails to commence felling and extraction to roadside in accordance with this Agreement within the period referred to in clause 12.9(a) (or such later date and time as may be approved in writing by the Head of Marketing and Sales of Forestry and Land Scotland from time to time in terms of clause 12.9), Forestry and Land Scotland may terminate this

Agreement and offer for resale the right to fell and extract the Trees to roadside and uplift the same. The Purchaser shall on demand pay to Forestry and Land Scotland an amount equivalent to any loss incurred by Forestry and Land Scotland on resale under this clause 12.11.

12.12 In the event that the Purchaser fails to uplift and remove any Products within the period referred to in clause 12.9(b) (or such later date and time as may be approved in writing by the Head of Marketing and Sales of Forestry and Land Scotland in terms of clause 12.9), Forestry and Land Scotland may invoice the Purchaser in relation to the quantity of Products, in which case the Purchaser shall pay such invoice in accordance with the terms of this Agreement

12.13 The Purchaser shall ensure that and shall procure that all Purchaser Representatives shall ensure that:

- a) all vehicles use only the Authorised Access Routes (written details of which must be provided by the Purchaser to all Purchaser Representatives) and are, when loaded, within the weight limits defined by the road classification or as otherwise specified on the Road Access Map, Forestry and Land Scotland giving no warranty or representation (whether express or implied) that any Authorised Access Route is suitable for use by vehicles;
- b) all vehicles are driven and used with all proper care and driven at a speed not exceeding 15mph, and as such shall be reasonable in all the circumstances including without limitation the presence of other forest users, the nature of the route and vehicular Load, and the prevailing weather and road conditions;
- c) every reasonable precaution is taken to prevent any damage to the Authorised Access Routes including, without prejudice to the generality of the foregoing or the following, ensuring they are not used after exceptionally heavy rains or during or after a thaw, until suitable for use without causing damage;
- d) all vehicles and all vehicular access to or egress from FLS Land and all uplift and removal of Products comply with: Applicable Law and relevant Guidance; Forestry and Land Scotland Policies and Procedures; any Site Specific Conditions; and the terms of the Road Haulage of Round Timber Code of Practice, including the terms therein relating to avoiding convoys of vehicles on the Authorised Access Routes;
- e) for any low ground pressure access routes designated as such by Forestry and Land Scotland from time to time, all vehicles are fitted with appropriate tyre pressure control systems or other low ground pressure technology which in each case enable the driver of the relevant vehicle to adjust the tyre pressure of the vehicle's tyres to reflect the vehicle's Load and the conditions of the Authorised Access Routes from time to time and the Purchaser shall or shall procure that any relevant Purchaser Representative shall provide Forestry and Land Scotland with evidence in form and substance

satisfactory to Forestry and Land Scotland of the Purchaser's compliance with the terms of this clause 12.13 (e);

- f) it or they have obtained prior authorisation and approval from Forestry and Land Scotland before commencing uplift and removal of Products from the Stacking Sites, using a unique DRN and compliant with chain of custody requirements; and
- g) it or they uplift and remove Products from the Stacking Sites in accordance with the Harvesting Production Plan; Applicable Law and relevant Guidance; Forestry and Land Scotland Policies and Procedures; and Good Industry Practice;

12.14 In the event of an Unauthorised Uplift, this Agreement and the Purchaser's rights to uplift and remove Products in terms hereof may be suspended by written notice of suspension by Forestry and Land Scotland to the Purchaser for a number of Business Days equal to the number of Unauthorised Uplifts made by the Purchaser, which period of suspension shall commence on the next Business Day immediately following the date of the relevant Unauthorised Uplift(s).

12.15 In the event that the Purchaser or any Purchaser's Representative fails at any time to comply with Forestry and Land Scotland Policies and Procedures relating to uplift of Products, this Agreement and the Purchaser's rights to uplift and remove Products in terms hereof may be suspended by written notice of suspension by Forestry and Land Scotland to the Purchaser for a period of at least two Business Days or such longer period as Forestry and Land Scotland (acting reasonably) may at its sole discretion determine, having regard to the nature and extent of such failure to comply, which period of suspension shall commence on the next Business Day immediately following the date upon which Forestry and Land Scotland determines that such failure to comply has occurred.

12.16 During any period of suspension of this Agreement the Purchaser or the Purchaser's Representative shall not uplift or remove any Products or enter or otherwise access FLS Land for the purposes of uplift or removal of any Products in terms of clause 12.14 or clause 12.15.

12.17 In the event that the Purchaser or any Purchaser Representative fails to comply with the terms of clause 12.16 then this Agreement and the Purchaser's rights to uplift and remove Products in terms hereof shall be suspended for a further period of five Business Days, which period of suspension shall commence on the next Business Day immediately following the date upon which Forestry and Land Scotland determines that such failure to comply has occurred.

12.18 In the event that the Purchaser or any Purchaser Representative makes more than three Unauthorised Uplifts during the Term of this Agreement, Forestry and Land Scotland will deem it a material breach and shall be entitled to terminate this Agreement with immediate effect in terms of clause 11.7.

13. PAYMENT WEIGHTS AND INVOICING

- 13.1 The Purchaser shall pay the Price in relation to each Load either:
- a) pursuant to an invoice raised by Forestry and Land Scotland in accordance with terms of this clause 13; or
 - b) pursuant to a self-billing arrangement entered into between the Purchaser and Forestry and Land Scotland in terms of clause 13.2.
- 13.2 If the Purchaser wishes to make payments to Forestry and Land Scotland under this Agreement by way of a self-billing arrangement in terms of clause 13.1(b), then it shall:
- a) enter into a self-billing agreement with Forestry and Land Scotland on such terms as Forestry and Land Scotland may from time to time require and comply at all times with the terms of such self-billing agreement;
 - b) comply at all times with Applicable Law and all applicable requirements of HM Revenue & Customs in respect of such self-billing arrangement; and
 - c) comply at all times with applicable FSC and PEFC chain of custody requirements in respect of such self-billing arrangements.
- 13.3 The weighing of each individual Load or part thereof shall be at the Purchaser's expense and the payment weight in relation to each Load shall be notified by the Purchaser to Forestry and Land Scotland within ten Business Days following uplift and removal of the relevant Load.
- 13.4 The Purchaser shall notify Forestry and Land Scotland of the relevant payment weights either by electronic data transfer, which the Purchaser shall ensure are compatible with Forestry and Land Scotland data standards, or through the return of weighbridge tickets / weighbridge data reports to a designated Forestry and Land Scotland office or nominated Forestry and Land Scotland email account and must include gross vehicle weight and net weight in metric tonnes and the date / time stamp of weighing for each individual Load, together with such other information as Forestry and Land Scotland may reasonably require.
- 13.5 Pursuant to clause 13.4, the payment weight for invoicing and self-bill purposes shall initially be derived from the net weight of Products for each individual Load over a weighbridge, which weighbridge shall comply with all Applicable Law, relevant Guidance and Good Industry Practice.
- 13.6 Where the Purchaser has no access to a weighbridge for the purposes of clause 13.5, the parties shall agree in writing an alternative method for determining the payment weight for invoicing and self-bill purposes, which alternative method may include, but shall not be limited to, print out from an appropriate on-board weighing device or a consistent payment weight for each individual Load. In the event that an alternative method for determining

the payment weight for invoicing and self-bill purposes is not agreed between the parties prior to the Start Date, then Forestry and Land Scotland shall be entitled at its sole discretion (acting reasonably) to determine such alternative method for determining the payment weight for invoicing and self-bill purposes. The Purchaser shall comply with any alternative method for determining the payment weight for invoicing and self-bill purposes as determined or amended by Forestry and Land Scotland in terms of this clause 13.6.

- 13.7 Where the Purchaser fails to notify payment weights to Forestry and Land Scotland or raise a self-bill invoice within the period specified in clause 13.3, Forestry and Land Scotland shall be entitled to issue a report to the Purchaser in respect of any outstanding transactions and serve notice of its intent to invoice the Purchaser in respect of the relevant Load(s) after 20 Business Days following uplift and removal of such Load(s).
- 13.8 Where, following the service by Forestry and Land Scotland of a notice of intent to invoice in terms of clause 13.7, the Purchaser has failed to notify payment weights or raise a self-bill invoice after 20 Business Days following removal of the relevant Load(s), Forestry and Land Scotland shall be entitled to invoice the Purchaser or require the Purchaser to raise a self-bill invoice which, in either case, shall be based upon a Load weighing 25 tonnes, this being the full and final payment weight.
- 13.9 Pursuant to clause 13.8, and specific to self-bill arrangements, if the Purchaser fails to raise a self-bill invoice Forestry and Land Scotland shall be entitled to suspend this Agreement and the Purchaser's rights to uplift and remove Products in terms hereof for such period as Forestry and Land Scotland may at its sole discretion determine, which period of suspension shall subsist unless and until the matter has been resolved to the satisfaction of Forestry and Land Scotland. During any period of suspension of this Agreement and the Purchaser's rights to uplift and remove Products in terms of this clause 13.9, the Purchaser shall not and shall procure that the Purchaser's Representative shall not uplift or remove any Products or enter or otherwise access FLS Land for the purposes of uplift or removal of any Products. In the event that the Purchaser or any Purchaser Representative uplifts or removes any Products or enters or otherwise accesses FLS Land for the purposes of uplift or removal of any Products in breach of the terms of this clause 13.9, Forestry and Land Scotland shall be entitled to terminate this Agreement with immediate effect in terms of clause 11.7.
- 13.10 Forestry and Land Scotland reserve the right to require that a calibration check or other inspection on any weighbridge utilised by the Purchaser to carry out any scan measured Load(s) is undertaken by an independent and suitably qualified and experienced person appointed by Forestry and Land Scotland.
- 13.11 If any calibration check or inspection undertaken pursuant to clause 13.10 identifies any irregularities and / or anomalies with a weighbridge utilised by

the Purchaser, Forestry and Land Scotland may, without prejudice to any other remedies available to it under this Agreement or otherwise, by notice suspend this Agreement and the Purchaser's rights to uplift and remove Products in terms hereof for such period as Forestry and Land Scotland may at its sole discretion determine, which period of suspension shall subsist until the Purchaser has remedied any such irregularities and / or anomalies to the reasonable satisfaction of Forestry and Land Scotland. During any period of suspension of this Agreement and the Purchaser's rights to uplift and remove Products in terms of this clause 13.11, the Purchaser shall not and shall procure that the Purchaser Representatives shall not uplift or remove any Products or enter or otherwise access FLS Land for the purposes of uplift or removal of any Products. In the event that the Purchaser or any Purchaser Representative uplifts or removes any Products or enters or otherwise accesses FLS Land for the purposes of uplift or removal of any Products in breach of the terms of this clause 13.11, Forestry and Land Scotland shall be entitled to terminate this Agreement with immediate effect in terms of clause 11.7.

14. CREDIT ACCOUNTS AND PRE-PAID INSTALMENTS

- 14.1 If the Purchaser has an Authorised Credit Facility, Forestry and Land Scotland shall render invoices to the Purchaser in accordance with the terms of clause 13 and track the Pipeline Value, together being the maximum amount which may be owed by the Purchaser to Forestry and Land Scotland at any time under this Agreement and any other agreement between the Purchaser and Forestry and Land Scotland. The maximum amount owed shall not exceed the authorised credit limit as determined by Forestry and Land Scotland.
- 14.2 If the Purchaser does not have an Authorised Credit facility, the Purchaser shall be required to make Pre-paid Instalments to Forestry and Land Scotland on a frequency to be agreed and invoiced in advance of any felling and removal of Products. The Purchaser shall not be authorised to fell and remove any Products until the agreed instalment has been paid in full.
- 14.3 If the limit of any Authorised Credit Facility referred to in clause 14.1 is, or is likely to be exceeded for any reason (of which Forestry and Land Scotland shall be sole judge), then:
- a) the Purchaser shall, in respect of any invoices rendered to the Purchaser in terms of this clause 14, pay to Forestry and Land Scotland on demand an amount which is equal to the amount by which the limit of any Authorised Credit Facility referred to in clause 14.1 has been, or is likely to be, exceeded; and
 - b) if the value of any invoices rendered to the Purchaser in terms of this clause 14 is less than the amount by which the limit of any Authorised Credit Facility referred to in clause 14.1 has been, or is likely to be, exceeded, Forestry and Land Scotland shall be entitled to raise an invoice for such amount as it shall determine at its sole

discretion is necessary to secure payments in relation to the Pipeline Value.

- 14.4 The Purchaser shall pay any amount demanded in terms of clause 14.3(a) or any invoice raised in terms of clause 14.3(b) within three Business Days of such demand or of the date of such invoice.
- 14.5 In the event that the Purchaser fails to make any payment it is required to make in terms of clause 14.4, Forestry and Land Scotland may, without prejudice to any other remedies available to it under this Agreement or otherwise, notify the Purchaser that no Products may be removed under this or any other agreement between Forestry and Land Scotland and the Purchaser unless and until the Purchaser has made such payment.
- 14.6 In the event that Forestry and Land Scotland issues a notice to the Purchaser under clause 14.5, the Purchaser will not thereby be relieved of any of the Purchaser's obligations under this Agreement, including, without prejudice to the generality of the foregoing, the obligation to remove the Total Quantity on or before the End Date.
- 14.7 Forestry and Land Scotland, from time to time and at its own discretion, reserve the right to request management accounts for Purchasers for the most recent trading year and undertake a credit risk assessment to determine a maximum amount for any Authorised Credit Facility. Forestry and Land Scotland also reserve the right to seek the latest credit recommendation from any such credit agency and use that information to inform the assessment.
- 14.8 Should management accounts be unavailable, the Purchaser shall be required to provide financial information as an interim measure, to include;
- a) Profit and loss: Total figures for; turnover, cost of sales, profit before tax; and
 - b) Balance sheet: Totals for, inventory, current assets (with Trade Debtors split out), current liabilities (with trade creditors split out).
- 14.9 Should the Purchaser decline the request for management accounts or financial information as described in 14.8(a) and 14.8(b), Forestry and Land Scotland reserve the right to determine the maximum amount of any Authorised Credit Facility based on the financial recommendation of any credit agency and / or other financial information and payment history deemed relevant by Forestry and Land Scotland.
- 14.10 Pursuant to 14.7, 14.8 and 14.9, should the limit of any Authorised Credit Facility be reduced, the Purchaser will be required to agree a payment plan and timeline with Forestry and Land Scotland for any sums on account over and above the revised credit limit. Where the Purchaser has failed to agree a payment plan, Forestry and Land Scotland may, without prejudice to any other remedies available to it under this Agreement or otherwise, notify the Purchaser that no Products may be removed under this or any other

agreement between Forestry and Land Scotland and the Purchaser until the Purchaser has made such payment as Forestry and Land Scotland shall, in its sole discretion determine.

15. PAYMENT OF INVOICES

- 15.1 Payment to Forestry and Land Scotland of invoices in respect of Products shall be made by the Purchaser in respect of each invoice / self-bill invoice by the payment due date as stated on the invoice.
- 15.2 Payment for the total amount of each invoice shall be made to Forestry and Land Scotland in immediately cleared funds, without deduction for or on account of any set off or counterclaim or (other than as required by law) any tax to such account as may be specified by Forestry and Land Scotland.
- 15.3 In the event that the Purchaser fails to pay in full any invoiced sums due by the Purchaser to Forestry and Land Scotland within 15 Business Days of the payment due date as stated on the invoice, Forestry and Land Scotland may, without prejudice to any other remedies available to it under this Agreement or otherwise, by notice suspend the Purchaser's rights to uplift and remove Products in terms hereof for such period as Forestry and Land Scotland may at its sole discretion determine, which period of suspension shall subsist until the Purchaser has paid in full any invoiced sums. During any period of suspension of this Agreement and the Purchaser's rights to uplift and remove Products in terms of this clause 15.3, the Purchaser shall not and shall procure that the Purchaser Representatives shall not uplift or remove any Products or enter or otherwise access FLS Land for the purposes of uplift or removal of any Products.
- 15.4 In the event that Forestry and Land Scotland issues a notice of suspension to the Purchaser under clause 15.3, the Purchaser will not, for the avoidance of any doubt, thereby be relieved of any of the Purchaser's obligations under this Agreement including, without prejudice to the generality of the foregoing, the obligation to uplift and remove the Total Quantity before the End Date.

16. COMPLETION CERTIFICATE

- 16.1 Forestry and Land Scotland will issue to the Purchaser a Completion Certificate only when it is satisfied all obligations under the terms of this Agreement have been fulfilled, including any outstanding obligation under clause 9.3. Where any outstanding matters remain, the Forestry and Land Scotland Contract Manager will notify the Purchaser of those in writing and the Purchaser shall be required to provide satisfactory resolution within 10 Business Days. If the parties fail to settle the matter within 10 Business Days, then either party may refer the matter to the Head of Marketing and Sales at Forestry and Land Scotland to settle and if the Purchaser does not accept the determination of the Head of Marketing and Sales at Forestry and Land

Scotland, either party may refer the matter to a single arbitrator under the terms of clause 19.3.

17. ASSIGNATIONS

17.1 In the event of a reorganisation of Forestry and Land Scotland or any of its commercial trading activities that results in Forestry and Land Scotland's business and activities being implemented, performed, carried out, effected or undertaken by a new body ("the Reorganised Forestry and Land Scotland") Forestry and Land Scotland shall on giving written notice to the Purchaser be entitled to assign all of its rights and/or transfer all of its obligations under this Agreement to the Reorganised Forestry and Land Scotland which shall be entitled to enforce those rights as if this Agreement were made between the Purchaser and the Reorganised Forestry and Land Scotland.

17.2 The Purchaser shall not assign the Purchaser's rights or liabilities under this Agreement without the consent in writing of Forestry and Land Scotland, which consent shall not unreasonably be withheld for the purposes of this clause but without limitation it would be reasonable for Forestry and Land Scotland to withhold its consent where the assignee appears to Forestry and Land Scotland in its reasonable opinion to be a person or organisation to be unlikely to be able to fulfil the Purchaser's obligations under the Agreement if assigned.

18. FORCE MAJEURE

18.1 If either party is unable to perform all or any of their obligations under this Agreement by reason of Force Majeure, then the party affected shall within 5 Business Days of the event or circumstance giving rise to Force Majeure give written notice to the other of its inability to perform the Agreement and the reasons for the same.

18.2 On the giving of such notice by either party then the liability of the party serving notice to make available or take the Products as appropriate in accordance with this Agreement shall be suspended and that party shall not be liable to meet the obligation to make available or accept the Total Quantity but shall continue to make available or accept such Products in such amounts as can be made available or accepted in the circumstances. As soon as circumstances permit the full provisions of the Agreement shall be resumed and the time provided for between the Start Date and End Date as set out in Part 1 of the Schedule shall be extended for a period equivalent in working hours and conditions to the period of delay or suspension thereby caused.

19. ARBITRATION

- 19.1 Clauses 19.2 to 19.4 inclusive shall apply in relation to any dispute or difference arising between the parties which involves the interpretation or construction of this Agreement or the Price or the rights or liabilities of the parties except as expressly provided in clause 16.1. Any dispute or difference arising between the parties and which involves: the Total Quantity as defined in Part 1 of the Schedule; the suitability of Authorised Access Routes; the specification in accordance with clause 4; or Force Majeure shall be referred to the Independent Panel. In deciding any question referred to them hereunder the Independent Panel shall act on their own skilled judgement after making any inspection or enquiries which they may think necessary. The Independent Panel's decision on any such question shall be final and binding on both parties. The costs and charges of the Independent Panel shall be paid by the parties in equal shares. Both parties shall provide the Independent Panel with any documentation or assistance that the Independent Panel may require to discharge their functions under this clause 19.1.
- 19.2 Save as provided in clause 19.1 if there is any question, difference or dispute which may arise concerning the construction, meaning or effect of this Agreement or concerning the rights and liabilities of the parties, then they shall use all reasonable efforts to settle it by way of negotiations.
- 19.3 If the parties fail to settle the matter within a reasonable period, then either party may refer it to a single arbitrator who shall be agreed between the parties. If the parties fail to agree on the appointment of an arbitrator in accordance with this clause, then within 1 month of the request by one party to the other that the matter be referred to arbitration either party may apply to President for the time being of the Chartered Institute of Arbitrators to make an appointment.
- 19.4 The decision of the arbitrator shall be final and binding upon the parties and the costs of the arbitration shall be within the arbitrator's award.

20. INSURANCE

- 20.1 Throughout the Term of this Agreement (and during any further period granted by Forestry and Land Scotland for the removal of Products after the End Date), the Purchaser shall either at its own expense maintain or shall procure that any Purchaser's Representative responsible for all activity on site shall maintain in force, with an insurance company approved by Forestry and Land Scotland, insurance against all loss, damage and insurable risks of third party liability up to a minimum of £10,000,000 (ten million pounds) per claim arising out of the works, operations, processes and other acts and omissions pursuant to this Agreement of the Purchaser and of the Purchaser Representatives engaged by it in connection with the exercise of the Purchaser's rights or the performance of its obligations under this Agreement (and of its and their respective employees). The Purchaser's obligations under

this sub-clause in relation to any agent, Contractor, or Sub-contractor (and their respective employees) shall be deemed to be satisfied to the extent that the Purchaser procures that such agent, Contractor, or Sub-contractor has effected insurance (with an insurance company and in an amount acceptable to Forestry and Land Scotland) which provides the same level of protection to Forestry and Land Scotland as if such insurance had been effected by the Purchaser. Furthermore, Forestry and Land Scotland may, in its discretion, agree that the Purchaser's obligations under this sub-clause in relation to itself and its employees shall be deemed to be satisfied in the event that it is demonstrated to the satisfaction of Forestry and Land Scotland that an agent, Contractor, or Sub-contractor has effected insurance (with an insurance company and in an amount acceptable to Forestry and Land Scotland) which provides the same level of protection to Forestry and Land Scotland as if such insurance had been effected by the Purchaser. Whenever required by Forestry and Land Scotland, the Purchaser shall produce to Forestry and Land Scotland the policy or policies relating to all such insurances and the receipts for the then current year's premiums in respect of them. The maintenance of insurance in accordance with the provisions of this sub-clause shall not serve to limit or exclude any liability of the Purchaser to Forestry and Land Scotland in delict or negligence or in respect of any breach of this Agreement.

- 20.2 The Purchaser shall not do or permit or suffer to be done or to be omitted within the Sale Area or at or on the Authorised Access Routes or otherwise anything that may render the policy or policies of insurance effected in accordance with clause 20.1 void or voidable.
- 20.3 Further, if at any time Forestry and Land Scotland can demonstrate that it is normal for third party liability insurance to be maintained for a sum greater than the sum referred to above, the Purchaser must within 30 days after notice from Forestry and Land Scotland increase their insurance to the amount specified in such notice (such sum to be based on the then forestry industry norm).

21. INDEMNITY

- 21.1 The Purchaser hereby undertakes to indemnify and hold harmless Forestry and Land Scotland from and against any and all losses, costs, damages, liabilities and expenses suffered or incurred by Forestry and Land Scotland directly or indirectly as a result of any act or omission of the Purchaser or of the Purchaser Representatives in connection with the carrying out of this Agreement, and against any and all actions, suits, proceedings, claims, demands, assessments and judgements with respect to any of the foregoing.
- 21.2 The Purchaser is responsible for assessing any and all risks associated with and/or arising on the Authorised Access Routes and within the Sale Area. Forestry and Land Scotland shall provide to the Purchaser, prior to the Start Date, a non-exclusive list of those hazards on the Authorised Access Routes

and the Sale Area from which risks may arise and these shall be shown on the Constraints Map. In addition, Forestry and Land Scotland shall ensure that (i) any overhead or underground electric lines and/or other utilities in the Sale Area will be indicated on the Sale Maps, and (ii) the network operator responsible for any such electricity lines or utilities will be listed in Part 3 of the Schedule.

22. RELATIONSHIP OF THE PARTIES

22.1 Nothing herein contained shall be deemed to constitute the Purchaser a partner, agent or representative of Forestry and Land Scotland and accordingly the Purchaser as an independent contractor hereby agrees and undertakes not without the prior written consent of Forestry and Land Scotland at any time or from time to time:

- a) to incur or purport to incur by itself, its employees, agents, Contractors, Sub-contractors and the employees of any of them any liability or obligation whatsoever in name or on behalf of Forestry and Land Scotland or in any manner of way to hold itself or themselves or himself or herself out as agent for Forestry and Land Scotland or otherwise to represent itself or themselves or himself or herself as having ostensible authority to act on Forestry and Land Scotland's behalf;
- b) in name of, or on behalf of Forestry and Land Scotland to make any representation or give any warranty, whether express or implied, about Forestry and Land Scotland or the Products in any manner of way not previously authorised in writing by Forestry and Land Scotland; and
- c) to pledge or purport to pledge Forestry and Land Scotland's credit; and
- d) to take or purport to make Forestry and Land Scotland bound as guarantor or surety in any manner of way whatsoever.

23. CONFIDENTIALITY

23.1 Each party agrees to maintain secret and confidential all information obtained from the other both pursuant to this Agreement and prior to and in contemplation of it, to respect the other's rights in terms of this Agreement, to use the same exclusively for the purposes of this Agreement, and to disclose the same only to those of its employees and Contractors pursuant to this Agreement (if any) to whom and to the extent that such disclosure is reasonably necessary for the purpose of this Agreement.

24. SPIRIT, AIMS AND INTENT

- 24.1 The parties hereto hereby undertake to execute all documents and do all acts and things necessary or expedient for the purpose of giving full force and effect to the provisions of this Agreement and the parties further agree to co-operate in and implement the spirit, aims and intent of the arrangements contemplated hereunder.

25. WAIVER

Any waiver by either party of a breach of any provision of this Agreement shall not be considered as a waiver of any subsequent breach of the same or any other provision hereof.

26. NOTICES

- 26.1 Any notice or document required or permitted to be given or served under this Agreement may be given or served personally or by leaving the same or by sending the same by first class recorded delivery post as follows: -
- a) in the case of Forestry and Land Scotland, to Forestry and Land Scotland Great Glen House, Leachkin Road, Inverness, IV3 8NW marked for attention of the Chief Executive;
 - b) in the case of the Purchaser at or to their address specified in Part 1 of the Schedule; or to such other address as shall have been last notified to the other party for that purpose. Any notice or document given or served by post will be deemed to have been duly given or served on the second Business Day after the letter containing same was posted; in proving that any notice or document was so given or served it will be necessary only to prove that the same was properly addressed and posted. Any notice or document given or served will be deemed to have been duly given or served at the time of despatch or, if that is not during normal business hours on a Business Day, at 0900 hours on the first Business Day following the date of despatch, and in proving that any notice or document was so given or served it will be necessary only to prove that the same was properly addressed and despatched.

27. FREEDOM OF INFORMATION

- 27.1 The parties acknowledge that Forestry and Land Scotland is subject to the requirements of the Freedom of Information (Scotland) Act 2002 (the "2002 Act") and the Environmental Information (Scotland) Regulations 2004 (the "Regulations") and the Purchaser shall assist and co-operate with Forestry

and Land Scotland to enable Forestry and Land Scotland to comply with its information disclosure requirements insofar as relating to this Agreement.

27.2 Forestry and Land Scotland shall be responsible for determining in its absolute discretion and notwithstanding any other provision of this Agreement whether any Information (having the meaning ascribed thereto under Section 73 of the 2002 Act) is exempt from disclosure in accordance with the provisions of the 2002 Act or the Regulations. The Purchaser acknowledges that Forestry and Land Scotland may be obliged under the 2002 Act and / or the Regulations to disclose Information in certain circumstances (a) without consulting with the Purchaser or (b) following consultation with the Purchaser and having taken its views into account provided always that Forestry and Land Scotland shall take reasonable steps where appropriate to give the Purchaser advance notice, or failing that, to draw the disclosure to the Purchaser's attention as soon as reasonably practicable after any such disclosure. For the avoidance of doubt, for so long as Forestry and Land Scotland is constituted as an executive agency of The Scottish Ministers, Forestry and Land Scotland shall be entitled to disclose details of sales and visitor numbers in relation to FLS Land to any Government Department or other Government Agency and any other related organisation and any tourist body that Forestry and Land Scotland deems appropriate.

28. MODERN SLAVERY

28.1 The Purchaser undertakes, warrants, and represents that neither the Purchaser nor any of the Purchaser Representatives:

- a) has committed an MSA Offence; or
- b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- d) it shall comply with the Modern Slavery Act 2015 and the Modern Slavery Policy;
- e) its responses to Forestry and Land Scotland's modern slavery and human trafficking due diligence questionnaire are complete and accurate; and
- f) it shall notify Forestry and Land Scotland immediately in writing if it becomes aware or has reason to believe that it, or any of the Purchaser Representatives, have breached or potentially breached any of the Purchaser's obligations under this clause 28. Such notice shall set out full details of the circumstances concerning the breach or potential breach of Purchaser's obligations.

28.2 The Purchaser shall, if requested, prepare, and deliver to Forestry and Land Scotland a slavery and human trafficking report setting out the steps it has

taken to ensure slavery and human trafficking is not taking place in any of its supply chains or in any part of its business.

29. COSTS AND EXPENSES

- 29.1 Save as otherwise stated in this Agreement, each party shall pay its own costs and expenses in relation to the negotiation, preparation, execution and carrying into effect of this Agreement.
- 29.2 The Purchaser shall indemnify and keep indemnified Forestry and Land Scotland on demand in respect of all costs and expenses incurred and any value added tax thereon by Forestry and Land Scotland in connection with the granting of any waiver or consent sought by the Purchaser or in connection with any variation, amendment, extension or modification of the Agreement requested by the Purchaser and in the enforcing, perfecting, protecting or preserving or seeking to enforce, perfect, protect or preserve any of Forestry and Land Scotland's rights, or in suing for the recovery of any sum due from the Purchaser under this Agreement.

30. GOVERNING LAW AND JURISDICTION

30.1 This Agreement shall be construed according to and governed by the law of Scotland and each of the parties hereby irrevocably submits to the jurisdiction of the Scottish courts.

IN WITNESS WHEREOF these presents on this and the preceding <> pages are together with the Schedule in [4] Parts annexed hereto executed in [duplicate] as follows: -

SUBSCRIBED for and on behalf of Forestry and Land Scotland at < >

on the day of,

by:-

Authorised Signatory.....

Full Name

Position / Title

SUBSCRIBED for and on behalf of > at >

on the day of,

by:-

Authorised Signatory.....

Full Name

Position / Title