

FORESTRY MANAGEMENT REGULATIONS 2015

Arrangement of Provisions

Part 1

Preliminary

1. Short title and commencement
2. Interpretation

Part 2

Licences and Permits

3. Renewal of licences or permits
4. Termination of licence or permit
5. Surrender of licence
6. Variation of licence or permit
7. Forestry Harvesting Contract

Part 3

Performance Bonds

8. Performance bonds
9. Enforcement and cancellation of performance bonds

Part 4

Reafforestation and Forestry Trust Fund

10. Reafforestation levy
11. Establishment of Forestry Trust Fund

12. Payments into Forestry Trust Fund

13. Payments out of Forestry Trust Fund

Part 5

Controls of Forest Produce

14. Measurement, etc of timber and other forest produce
15. Branding or marking of forest produce
16. Inspection

Part 6

Protection against Fire

17. Storage of liquid fuel in forestry area
18. Stopping dangerous operations in forestry area
19. Stopping certain activities in forestry area
20. Use of public road or other infrastructure
21. Use of machine in forestry area
22. Refuelling machine near flammable matter

Part 7
Control of Mobile
Sawmills

- 23. Application of this Part
- 24. Register of mobile sawmill
- 25. Registration of mobile sawmill
- 26. Import and sale of mobile sawmill
- 27. Application to operate a mobile sawmill
- 28. No operation without valid mobile sawmill operator licence
- 29. Duration of licence
- 30. Consideration of application
- 31. Renewal of mobile sawmill operator licence
- 32. Quota of logs allowable
- 33. Revocation of licence
- 34. Offence for this Part

Part 8
Camping on State Forest
Land

- 35. Permission to use State Forest Land for camping
- 36. Camping on State Forest Land
- 37. Charges for camping in State Forest Land

Part 9
Restrictions of forestry
operations

- 38. Protected species
- 39. Mandatory restrictions on commercial forestry operations
- 40. Restrictions on export of Samoa native species timber

Part 10
Miscellaneous

- 41. Offences
 - 42. Savings and transitional arrangements
 - 43. Fees Schedule
-

Pursuant to section 85 of the Forestry Management Act 2011, I, Tui Atua Tupua Tamasese Efi, Head of State, make the following regulations:

Dated at Apia this.....day ofí í .í í .í ... 2015

.....
(Tui Atua Tupua Tamasese Efi)

HEAD OF STATE

REGULATIONS

Part 1

Preliminary

1. Short title and commencement - (1) These Regulations may be cited as the Forestry Management Regulations 2015.

(2) These regulations commence on the date on which they are made.

2. Interpretation ó (1) In these Regulations unless the context otherwise requires:

õ**Act**ö means the Forestry Management Act 2011;

õ**authorised officer**ö means

õ**Chief Executive Officer**ö has the same meaning as in section 2 of the Act;

õ**Forestry Harvesting Contract**ö means the form of contract referred to in regulation 7;

õ**licence**ö means a licence issued under section 39 of the Act;

õ**Ministry**ö has the same meaning as in section 2 of the Act;

õ**mobile sawmill**ö means any type of sawmill or any timber producing machine that is designed to be set up and or moved from one location to another, and includes all portable or "wokabaut" type sawmills and any chainsaw minimills;

õ**National Forest Plan**ö means the plan prepared pursuant to section 29 of the Act;

õ**permit**ö means a permit issued under section 40 of the Act;

Part 2

Licences and Permits

3. Renewal of licences or permits ó (1) A licence or a permit holder must apply to the Chief Executive Officer to renew a licence or permit at least 30 days before a current licence or permit expires.

(2) An application to renew a licence or a permit must comply with the procedure and requirements of sections 39 (3) or 40 (3) of the Act, as the case may be.

(3) A renewed licence or permit must be granted in accordance with the procedure and requirements of sections 39 (4) or 40 (4) of the Act, as the case may be.

4. Termination of licence or permit ó (1) A licence or a permit is immediately terminated:

- (a) in the case of an individual holder ó upon an act of bankruptcy by the licence or permit holder; or
- (b) in the case of a body corporate ó upon the appointment by a Court of an official receiver or liquidator in respect of the licence or permit holder.

(2) In any proceeding for the bankruptcy or winding up of a person who has been granted a licence or a permit under the Act, the licence or permit does not form part of that person's property.

5. Surrender of licence ó (1) A licence holder may, with the written consent of the Chief Executive Officer, surrender the licence in whole or in part.

(2) The Chief Executive Officer's consent to the surrender of a licence may be subject to any conditions which the Chief Executive Officer may see fit to impose, in which case the surrender of the licence does not become effective until the Chief Executive Officer is satisfied that the imposed conditions have been met.

6. Variation of licence or permit – (1) On application in writing by a licence or permit holder, the Chief Executive

Officer may, by an appropriate endorsement on the licence, vary the terms and conditions of a licence, but not so as:

- (a) to cause the forestry operations, the subject of the licence or permit, to be inconsistent with the contents of the National Forest Plan ; or
- (b) to authorise any forestry operation over land which is not authorised under an agreement relating to the harvesting and sale of forest produce referred to in section 39 (3) (i) or section 40 (3) (i) of the Act.

(2) A licence or permit holder who wishes to nominate, in addition to, or in substitution for, a person nominated in the licence or permit, must apply under subregulation (1) for a variation of the licence or permit.

(3) The Chief Executive Officer may vary the terms and conditions of a licence or a permit so as to remove any inconsistency with the National Forest Plan.

(4) For the avoidance of doubt, a licence or a permit holder is not entitled to any compensation upon a variation of the licence or permit under subregulation (3).

(5) Subject to subregulation (1), the Chief Executive Officer may vary a licence so as to increase or reduce the area to which the licence or permit applies.

(6) The Chief Executive Officer must give written notice of a licence or permit variation to the licence or permit holder.

7. Forestry Harvesting Contract – (1) Pursuant to section 37 (3) of the Act, the form for a Forestry Harvesting Contract is specified in the Schedule.

(2) The parties to a Forestry Harvesting Contract may only negotiate the price as specified in clause 4 of the Forestry Harvesting Contract, provided that the price payable to the party that owns the property which is the subject of the contract shall not be less than thirty percent of the gross price received for each load of timber cut and sold.

Part 3

Performance Bonds

8. Performance bonds ó (1) A licence holder must maintain a performance bond applied to a licence until a written notice of cancellation of the bond is received from the Chief Executive Officer.

(2) A performance bond provides security for:

- (a) the licence holder's compliance with the terms, conditions and restrictions of the licence; and
- (b) payment to the Government of all taxes, duties, levies, charges, fees and penalties payable by the licence holder under any law; and
- (c) payment by the licence holder of any rental, penalties or compensation to which forestry resource owners are entitled to under a forestry harvesting contract signed pursuant to section 44 of the Act.

(3) The amount of performance bond must be fixed by the Chief Executive Officer in accordance with an approved scale for fixing performance bonds.

(4) The Chief Executive Officer may exempt a licence holder from the requirement for a performance bond if, in the Chief Executive Officer's opinion:

- (a) the licence holder has a proven record of compliance with the requirements of a licence and making the payments due; or
- (b) the scale of the commercial forestry operations authorised by the licence is not sufficient to justify the effort and expense of securing a performance bond.

9. Enforcement and cancellation of performance bonds

– (1) If a licence holder fails to make payment of a sum secured by a performance bond, the Chief Executive Officer may enforce the bond against the issuing bank or other person in

accordance with the procedure set out in subregulations (2) and (3).

(2) The Chief Executive Officer must give notice of intention to enforce a performance bond by a written notice to the licence holder:

- (a) stating the amount and nature of the sum in respect of which the performance bond is to be enforced; and
- (b) inviting the licence holder within 30 days to pay the amount outstanding or make representations to the Chief Executive Officer as to why the performance bond should not be enforced.

(3) If, after the end of the period specified in the notice given under subregulation (2), any of the amounts outstanding remain unpaid, the Chief Executive Officer may enforce the performance bond and pay the proceeds to the party entitled.

(4) After the expiry, cancellation or termination of a licence to which a performance bond applies, the Chief Executive Officer must, if satisfied that there are no sums secured by the performance bond which remain outstanding, cancel the performance bond and give written notice of the cancellation to the issuing bank or other person.

Part 4 **Reafforestation and Forestry** **Trust Fund**

10. Reafforestation levy – (1) A reafforestation levy is imposed on all timber cut during the course of a forestry operation, and shall be such percentage of the market value at stump of the timber cut, sold or utilised.

(2) The market value at stump shall be assessed by the Minister, on the recommendation of the Chief Executive Officer.

(3) The Minister may, upon the written application of a licence holder and on the recommendation of the Chief Executive Officer, by Order reduce the licence holder's

reafforestation levy by an amount not exceeding one half of that levy to reflect the degree to which the licence holder has complied with the requirements for reafforestation.

11. Establishment of Forestry Trust Fund ó (1) A Forestry Trust Fund is established for the purpose of reafforestation, research, promotion of sustainable development and to assist with funding the full range of activities of the Ministry.

(2) The Forestry Trust Fund is to operate for an initial period of 5 years from the date of its establishment, but it may be extended by Cabinet, on the recommendation of the Minister, following a review under subregulation (4).

(3) The Chief Executive Officer must, in consultation with the Chief Executive Officer of the Ministry of Finance, set up auditing, administrative and financial procedures for the operation of the Forestry Trust Fund.

(4) The Chief Executive Officer must review the operation of the Forestry Trust Fund towards the end of its initial 5 year period, and recommend to the Minister:

- (a) whether the Forestry Trust Fund should be extended, and, if so, for what period; and
- (b) what improvements should be made to the operation of the Forestry Trust Fund.

(5) The Minister must submit the Chief Executive Officer's recommendations to Cabinet for its decision.

12. Payments into Forestry Trust Fund ó There is to be paid into the Forestry Trust Fund:

- (a) the reafforestation levy imposed under these Regulations; and
- (b) any other levies fixed pursuant to section 54 of the Act.

13. Payments out of Forestry Trust Fund ó (1) The Forestry Trust Fund is to be used to make payments for all or any of the following:

- (a) establishment and maintenance of nurseries;
- (b) provision of planting material;
- (c) planting, care and maintenance of trees;
- (d) provision of forestry information, training and advice;
- (e) reforestation works;
- (f) the conduct of forest research, forestry extension and forest conservation;
- (g) the acquisition of any capital asset required to carry out the above activities;
- (h) international cooperation in forestry.

(2) The Forestry Trust Fund is not to be used for any other purpose.

(3) All payments out of the Forestry Trust Fund must be consistent with the National Forest Plan.

(4) The Chief Executive Office is responsible for making payments out of the Forestry Trust Fund.

Part 5 Controls of Forest Produce

14. Measurement, etc of timber and other forest produce ó (1) Subject to subregulation (2), the Ministry shall prepare a Code of Logging Practice under section 45 of the Act which shall include but not limited to any of the following matters:

- (a) procedures for the measurement, appraisal, cutting, marking and removal of timber and other forest produce;
- (b) log measurement and branding;

(c) different methods of identification, measurement and branding for different categories of timber.

(2) Only licensed log scalers or authorised officers may measure, appraise and mark timber and other forest produce.

(3) The Ministry may continue to use the Samoan Code of Practice of Harvesting of Native Forest and Plantations April 2001, where it is not inconsistent with the Act or these Regulations, before it obtains approval for a Code of Logging Practice under section 45 (1) of the Act .

15. Branding or marking of forest produce ó (1) Any timber taken under a licence or permit shall be identified, measured and branded in a manner specified in a Code of Logging Practice prepared pursuant to section 45 of the Act and regulation 13.

(2) A licence or permit holder must keep, and at all times make available for inspection by an authorised officer, a written record of identification, measurements and branding of all timber taken under a licence or permit.

(3) An authorised officer may, at any time, measure or estimate the volume and quantity of timber felled and, for the purposes of determining levies or other charges payable in respect of such timber, such measurement or estimate shall prevail, notwithstanding that the timber has been measured in accordance with subregulation (1).

16. Inspection ó (1) The Chief Executive Officer or an authorised officer may, in the interests of monitoring, prevention and investigation of any breach of any provision of the Act,:

(a) enter and inspect any land; and

(b) enter any vessel, property or building, other than a private dwelling, and inspect any plant, machinery or equipment, and any books or accounts, returns, documents or records of any description on that vessel or property or in that building;

- (c) inspect any timber or other forest products, wherever it may be located; and
- (d) require any person to execute a statutory declaration relating to matters within that person's knowledge and control; and
- (e) enter and inspect any area where commercial forestry operations take place.

(2) Licence and permit holders, producers and distributors of forest produce, and persons directly or indirectly taking delivery of timber or other forest produce shall produce for inspection under sub-regulation (1) by the Chief Executive Officer or an authorised forestry officer, all books or accounts, returns, records and other document connected with any forestry operation.

Part 6

Protection Against Fire

17. Storage of liquid fuel in forestry area ó (1) A person who, while in a forestry area, stores liquid fuel is guilty of an offence unless the fuel is stored:

- (a) under, or for the purposes of carrying out an activity authorised by, a licence or permit, or other authority issued or granted under the Act; and
- (b) in accordance with any conditions relating to the storage of liquid fuel imposed by the licence, permit or other authority.

(2) This regulation does not apply to liquid fuel stored in the fuel tank of a machine.

18. Stopping dangerous operations in forestry area ó (1) An authorised officer who believes that a machine:

- (a) that is in such mechanical condition as to create a danger of fire is being used in a forestry area; or
- (b) is being used in such a way as to create a danger of fire in a forestry area,

may direct the person who is using the machine to stop using it until such time as an authorised officer considers it can be safely used without creating such a danger.

(2) A person who fails to comply with a direction under this clause is guilty of an offence.

19. Stopping certain activities in forestry area ó (1) An authorised officer may direct a person to stop carrying on an activity in a forestry area if the officer believes that the weather conditions are such that continuation of the activity is likely to cause the ignition or the spread of fire.

(2) A person who is given such a direction is guilty of an offence if the person:

- (a) fails to immediately comply with the direction; or
- (b) resumes the activity before an authorised officer permits the activity to be resumed.

(3) This regulation applies to a person to whom a direction under this regulation is given even if the direction is inconsistent with the conditions or restrictions specified in a licence or permit, or other authority issued or granted to the person under the Act.

(4) A person is guilty of an offence under this regulation only if the authorised officer, when giving the direction:

- (a) discloses to the person that he or she is an authorised officer; and
- (b) informs the person that failure to comply with the direction is an offence under this regulation.

20. Use of public road or other infrastructure ó (1) Police officers, traffic officers, forest officers, licence or permit holders may take all and any necessary measures to control, regulate or prohibit the use of any public road or other public infrastructure on or within one mile of forest land while a fire is in progress or fire fighting operations are proceeding in the vicinity of such public road or infrastructure.

21. Use of machine in forestry area ó (1) A person who in a forestry area drives or uses a machine is guilty of an offence unless:

- (a) a spark arrester that is in a serviceable condition is securely fixed to the exhaust of the machine; and
- (b) the fuel, electrical and braking systems and all combustion chambers, manifolds, exhaust pipes and expansion chambers of the machine and their joints are in all respects in safe working order; and
- (c) the machine is free of surplus oil, dust impregnated with oil and vegetable matter.

(2) Subregulation (1) (a) does not apply in respect of a motor vehicle.

22. Refuelling machine near flammable matter ó (1) A person must not, while in a forestry area, refuel a machine except at a location at which the ground is clear of all flammable matter for a distance of at least 1.5 metres from every part of the machine.

Part 7 Control of Mobile Sawmills

23. Application of this Part ó This Part of the regulations apply to any person who owns, has in their possession or under their control or operates a mobile sawmill.

24. Register of mobile sawmill ó (1) The Chief Executive Officer shall keep and maintain a register of mobile sawmills in Samoa.

(2) The register shall contain in relation to each mobile sawmill the manufacturers name, type, model, serial number and the name of the owner or person having possession or control of the mobile sawmill

25. Registration of mobile sawmill ó (1) Any person who owns or has in their possession or under their control or intends to import or buy or otherwise acquires a mobile sawmill shall

apply for registration of the mobile sawmill in the register of mobile sawmills.

(2) The application for registration in the register of mobile sawmills shall be in a form approved by the Chief Executive Officer, and shall be accompanied by the registration fee.

(3) A mobile sawmill that is the subject of an application for registration or the renewal of a registration must be inspected by the Ministry before a decision on registration is made.

(4) Upon completion of registration, the Chief Executive Officer shall deliver or cause to be delivered to the applicant a certificate of registration in respect of any mobile sawmill registered.

(5) A certificate of registration is valid for a period of 12 months and must be renewed at least 30 days before the expiry date by filing an application with the Ministry and paying a registration renewal fee.

26. Import and sale of mobile sawmill ó (1) No person shall own, operate or have in their possession or under their control a mobile sawmill which has not been registered under these Regulations.

(2) Any person who imports a mobile sawmill into Samoa shall notify the Ministry of the registrable details of the mobile sawmill and the name and address of the person who subsequently purchases the mobile sawmill and shall also inform the purchaser of the requirement to register the sawmill with the Ministry.

(3) Any person who sells or otherwise disposes of in Samoa a registered mobile sawmill shall notify the Ministry in writing prior to the sale the name and address of the purchaser or person acquiring possession or control and the registrable details of the mobile sawmill and shall surrender their certificate of registration to the Ministry on completion of the sale.

27. Application to operate a mobile sawmill ó (1) Subject to subregulations 28 (2) and (3), any person who wishes to operate a mobile sawmill for commercial purposes must apply

to the Chief Executive Officer for a mobile sawmill operator licence.

(2) An application for a mobile sawmill operator licence shall be in a form approved by the Chief Executive Officer and shall be accompanied by the application fee.

(3) Having considered the application, the Chief Executive Officer may grant or refuse to grant a mobile sawmill operator licence. The Chief Executive Officer shall provide the reasons for his or her refusal.

(4) A mobile sawmill operator licence shall be in a form approved by the Chief Executive Officer.

28. No operation without valid mobile sawmill operator licence ó (1) No person shall operate a mobile sawmill for commercial purposes without a valid mobile sawmill operator licence.

(2) This regulation shall not apply to the use of a registered mobile sawmill by the registered holder for cutting timber for the registered holders personal use other than commercial purposes on land of which the registered holder is a owner and which has not been leased or otherwise let or licensed to any other party.

(3) This regulation shall not apply to the use of a registered mobile sawmill by the registered holder if the registered holder is also the holder of a licence issued under the Act and the mobile sawmill is operated in accordance with the conditions and requirements of that licence.

29. Duration of licence ó A mobile sawmill operator licence shall be issued only for such period as the Chief Executive Officer considers appropriate to the applicant's project proposal within the limits specified in the licence.

30. Consideration of application ó (1) When considering an application for a mobile sawmill operator license the Chief Executive Officer shall consider:

(a) evidence of the applicant's ability to fulfill the financial

requirements of these regulations;

- (b) evidence of proper negotiation of a forestry harvesting contract with landowners on whose land the operations are to take place;
- (c) the experience and or training of the applicant in operating mobile sawmills;
- (d) the applicant's training and experience in relation to the Code of Logging Practice or similar codes;
- (e) the suitability of the applicant's project proposal;
- (f) the sustainable level of timber harvesting in Samoa generally or in any particular area; and
- (g) any other relevant matters.

31. Renewal of mobile sawmill operator licence ó (1) A person may, upon the expiry of the mobile sawmill operator licence, apply to the Chief Executive Officer seeking the renewal of his or her licence.

(2) The application shall be in a form approved by the Chief Executive Officer and shall be accompanied by the application fee .

(3) When considering an application to renew a licence, the Chief Executive Officer shall take into account:

- (a) the applicant's record of compliance with the terms and conditions of his or her previous licence and the Act;
- (b) the matters referred to in regulation 30.

32. Quota of logs allowable ó (1) The Chief Executive Officer shall ensure that mobile sawmilling operations comply with the principles of sustainable development by periodically specifying the maximum log quota available for mobile sawmills.

(2) The Chief Executive Officer shall also specify the maximum annual quota of logs or sawn timber which each mobile sawmill license holder may cut.

33. Revocation of licence ó In the event that a holder of a mobile sawmill operator licence fails to comply with these regulations or the Act, the Chief Executive Officer may revoke his or her licence by notice in writing.

34. Offence for this Part ó Any person who contravenes any provisions of this Part commits an offence and upon conviction, the Court may in addition to awarding a fine of not more than 30 penalty units, order the cancellation of the offender's licence and the confiscation of any mobile sawmill.

Part 8 Camping on State Forest Land

35. Permission to use State Forest Land for camping –
(1) A person or organization that wishes to use State Forest Land for camping must lodge a request in writing with the Chief Executive Officer seeking permission to use the State Forest Land.

(2) The Chief Executive Officer may grant permission to use State Forest Land for camping subject to conditions which must be specified in writing and brought to the attention of the applicant.

36. Camping on State Forest Land ó (1) An authorised officer may, by displaying a notice to that effect in a conspicuous position in or in the immediate vicinity of the forestry area:

- (a) prohibit persons from camping in the area; or
- (b) permit persons to camp in the area but only in accordance with conditions specified in the notice.

(2) A person who contravenes a prohibition or conditions specified in a notice displayed in accordance with subregulation (1) is guilty of an offence.

37. Charges for camping in State Forest Land ó (1) The Chief Executive Office:

- (a) may impose and collect charges for camping in the area;
and

(b) may display notices at or in the vicinity of a road that provides access to the area to the effect that persons are prohibited from camping in the area unless they have paid to the owner the required camping charge.

(2) A person must not, if a notice is displayed in accordance with subregulation (1) in relation to a forestry area, camp in the area unless the required camping charge has been paid to the owner of the forestry area.

(3) A court may, in addition to imposing a penalty for a contravention of this regulation, make an order for the payment of the charge to which the contravention relates.

Part 9

Restrictions of forestry operations

38. Protected species ó (1) The Minister may by Order determine species of plants as protected species for the purposes of the Act.

(2) A protected species must not be felled or removed in the course of conducting commercial forestry operations, unless such felling or removal is expressly authorised by a licence or a permit

39. Mandatory restrictions on commercial forestry operations ó (1) Commercial forestry operations must not be conducted:

- (a) within approved excluded buffer zone areas around water resources as set out in the Code of Logging Practice or in other law;
- (b) within at least 600 metres distance from sea level (being the mean high water mark, as that term is conventionally understood);
- (c) on land having a slope in excess of 30 degrees, or less as specified by the Code of Logging Practice for particular circumstances or designated by the Ministry; and
- (d) in a protected rainfall catchment area declared under any other law;

except to the extent, if any, that it is expressly authorised by a licence or permit.

40. Restrictions on export of Samoa native species timber ó (1) Subject to subregulation (2), the export of Samoa native species timber or log, or part thereof is prohibited.

(2) The Minister may by a specific Order permit the exportation of Samoa native species timber, or part thereof, only for:

- (a) the purposes of scientific research; and
- (b) the promotion of Samoa native species timber.

(3) For the avoidance of doubt, this regulation does not prohibit the exportation of value added products made from Samoa native species timber.

Part 10 Miscellaneous

41. Offences – (1) A person who commits an offence against these Regulations for which no penalty is provided elsewhere than in this regulation is liable upon conviction to:

- (a) in the case of an individual ó
 - (i) to a fine not exceeding 10 penalty units or to a term of imprisonment not exceeding 6 months, or both; and
 - (ii) if the offence is a continuing one, to a further fine not exceeding 2 penalty units for every day during which the offence continues;
- (b) in the case of a body corporate ó
 - (i) to a fine not exceeding 50 penalty units; and
 - (ii) if the offence is a continuing one, to a further fine not exceeding 5 penalty units for every day during which the offence continues.

(2) A person who provides false or misleading information:

- (a) in any application under these Regulations; or
- (b) in any books, record, return or information required to be provided under these Regulations,

commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units or to a term of imprisonment not exceeding 2 years, or both.

42. Savings and transitional arrangements ó (1) A licence, permit or permission granted before the commencement of these regulations shall continue to be valid until their expiry date.

(2) The owner, operator or controller of a mobile sawmill that is not registered shall have 6 months from the commencement of these regulations to register a mobile sawmill.

43. Fees – The Chief Executive Officer shall approve all fees under these Regulations.

Schedule

Regulation 7:

Forestry Harvesting Contract

This Contract is made on the day of20

Between

Name:
Address:
(called õthe Loggerö)

And

Name:
(called õthe Landownerö)

Background:

- A. The Landowner are the sole owners of certain real property located at more particularly described and marked in red on the map in Schedule 1 and hereafter referred to as the õpropertyö.
- B. The Landowner agrees to sell, and Logger agrees to purchase, a certain boundary of timber marked and

designated on the property under the terms and conditions set out below:

Now it is agreed as follows:

1. Condition Precedent

1.1 This Contract is subject to and conditional upon the grant of a licence or permit under the Forestry Management Act 2011 and shall not confer any right to harvest timber or other forest produce except in accordance with that licence or permit.

2. Grant of rights to timber or other forest produce

2.1 The Landowner hereby grants to the Logger the exclusive right to purchase timber or other forest produce from the property.

2.2 The Landowner declares that:

- (a) they are owners of the property;
- (b) they are entitled to deal with the timber or other forest produce on the property; and
- (c) no other person has any right or interest in the timber or other forest produce on the property.

2.3 Timber or other forest produce remains the property of the Landowner until it has been felled, when the timber or other forest produce becomes the property of the Logger, subject to the payment of the price in accordance with clause 4.

2.4 The Landowner must not interfere with the carrying out of this Contract.

2.5 The Landowner must not allow any other person to acquire an interest in the timber or other forest produce which the Logger may be entitled to take under this Contract.

3. Term of this Contract

3.1 This Contract commences on the day on which a licence or permit covering all or part of the property is issued.

3.2 The Logger agrees to perform the task of cutting and removing all designated timber or other forest produce for sale on or before

4. Price

- 4.1 Logger and Landowner shall share equally, fifty percent to Logger and fifty percent to Landowner the gross price received for each load of timber cut and sold hereunder. Logger shall provide to Landowner a true and accurate copy of any and all logging receipts, and shall immediately pay to the Landowner their share of the sale proceeds activities as set forth above.

5. Operation Control

- 5.1 Logger shall be responsible for the activities of their employees, agents, subcontractors and their employees and agents, acting in the course of their employment in operations under this Contract.
- 5.2 Logger represents that a person who has been trained and have full knowledge and understanding of the Samoan Code of Practice of Harvesting of Native Forest and Plantations April 2001, or any other Code of Logging Practice made pursuant to the Forestry Management Act 2011, shall be present at the site to oversee the operations under the Contract.
- 5.3 Logger further represents that all vehicles and equipment used in the operation are in good and safe working condition.

6. Liability for Injury

- 6.1 This is a forestry harvesting contract and not a joint venture between the Landowner and Logger. Logger assumes all liability for injury to employees, agents, subcontractors and their employees and agents.
- 6.2 Logger shall indemnify and hold harmless Landowners from and against all claims and demands arising out of or in connection with work performed under this Contract.

7. Assignment or Modification

- 7.1 Neither party shall, without the prior written consent of the other, assign or otherwise transfer any interest in this Contract.

7.2 No amendment or modification of this contract shall be effective unless reduced to writing and signed by both parties.

7.3 Landowner's delay or failure to cancel or terminate this contract upon the occurrence of any default shall not be deemed a waiver or release by Landowner of rights, claims or causes of action arising from this Contract or by common or statutory law.

8. Timber Harvest Management Practices

8.1 Logger and Landowners specifically covenant, acknowledge and agree that the Samoan Code of Practice of Harvesting of Native Forest and Plantations April 2001, or any other Code of Logging Practice made pursuant to the Forestry Management Act 2011 shall control timber harvest management activities under this Contract and are, therefore, of the essence of this Contract.

8.2 Logger agrees to conduct the activities under this Contract in a manner so as to take all reasonable precautions to prevent pollution of soil, water and air and to prevent fires and fire hazards.

9. Termination of Contract

9.1 Upon Logger's failure to conduct timber harvest activities in accordance with clause 8 of this Contract or upon Logger's failure to keep or perform any of the covenants or contracts contained in this Contract, the Logger shall be in default and the Landowners may, at their election, cancel this Contract and terminate all rights and privileges of the Logger hereunder.

9.2 Upon such termination, Logger's right to enter any part of the property or to cut or remove logs shall immediately cease and terminate.

10. Timber boundary

10.1 Landowner has designated the timber boundary within which the timber harvest shall take place. No trees other than those marked within the designated timber boundary shall be cut or removed, with the exception of those trees which must be removed to construct skid

trails and access roads. The timber boundary is marked and designated by three bright orange stripes painted on the boundary trees. Trees designated for cutting, removal, and sale are marked with three blue stripes painted at approximately eye level. Logger shall compensate Landowner three times the market rate for any trees cut or removed that are not marked as stated above.

11. Acknowledgement

11.1 Each party acknowledges that they possess or have access to a copy of the Samoan Code of Practice of Harvesting of Native Forest and Plantations April 2001.

Landowner:

Logger:

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Witness:

Witness:

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