

STATE OF ALABAMA

SHELBY COUNTY

378

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This timber sales contract is made and entered into by and between Union Camp Corporation, a corporation, (hereinafter called Buyer) and The Water Works and Sewer Board of the City of Birmingham, a public corporation, (hereinafter called Seller).

For and in consideration of the sum of ten dollars (\$10.00) and other good and valuable consideration in hand paid by the Buyer to the Seller, the receipt of which is hereby acknowledged by the Seller, the Seller hereby conveys and sells unto the Buyer all of the pine sawtimber trees which have been marked with blue paint and which are located on the following described land, which contains approximately 180 acres and which is shown outlined in red on the attached plat and is more particularly described as follows (said land shall be hereinafter called Land and said trees shall be hereinafter called Timber):

That part of the SW 1/4 of Section 21 that is located southeast of Highway 119 and southwest of a gravel road; that part of the W 1/2 of SE 1/4 of Section 21 that is located south of a gravel road; three acres, more or less, in or near the NW corner of SE 1/4 of SE 1/4 of Section 21; NW 1/4 of NE 1/4 of Section 28; NE 1/4 of NW 1/4 of Section 28 less two acres, more or less, in or near the SW corner of said NE 1/4 of NW 1/4 of Section 28; that part of the NW 1/4 of NW 1/4 of Section 28 that is located SE of Highway 119; ten acres, more or less, in SW 1/4 of NW 1/4 of Section 28; twenty-five acres, more or less, in or near the NE corner of Section 29 located SE of Highway 119; that part of the SE 1/4 of SE 1/4 of Section 20 that is located SE of Highway 119; all of the foregoing being in Township 18 South, Range 1 West, Shelby County, Alabama.

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1. The Seller warrants that it owns the Land and the Timber, that it has the right to sell and convey the Timber and that it will protect the right of the Buyer to cut and remove the Timber from the Land until the expiration date of this contract. The Seller has con-

W.S.N. 2.

ferred upon James M. Vardaman & Co., Inc. (hereinafter called Vardaman) the authority: (a) to act as its agent in the negotiation of the sale of the Timber; and (b) to make frequent inspections of the Buyer's operations upon the Land. The Seller and its agent shall have the right to make inspections of the Buyer's operations upon the Land, as often as reasonably necessary, during the term of this contract.

2. This contract covers only those trees that have been marked with blue paint at breast height and at the stump by foresters of Vardaman and the Buyer agrees to cut only such trees, leaving all other trees that have not been so marked. Notwithstanding the foregoing, the Seller reserves the right to prevent the Buyer from cutting any or all of the Timber in any area in which, in the sole opinion of the Seller: (a) the Buyer is overcutting; or (b) the removal of such Timber might adversely affect the Seller's watershed. If the Seller prevents the Buyer from cutting any of the Timber, the appropriate pro rata reduction shall be made in the purchase price of the Timber or, at the Buyer's option, the Seller shall permit the Buyer to cut and remove a like amount of timber from other land of the Seller which is located not more than three miles from the Land.

3. The Buyer agrees to remove all the Timber, or that portion of the Timber that it desires to remove, within twenty-four months from the date of this contract. This contract shall expire on the earlier of the end of said twenty-four-month period or the date on which the Buyer completes cutting and removing such Timber. After the expiration date of this contract all rights of the Buyer in and to the Timber which remains on the Land shall terminate and all remaining Timber shall revert to, and become the absolute property of the Seller. The same termination date shall apply to any other land upon which

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the Buyer and the Seller have agreed the Buyer may cut trees in lieu of not cutting some of the Timber, as provided in paragraph 2 hereof.

4. The Buyer agrees to cut and remove the Timber in a good and workmanlike manner and in accordance with best management practices for a watershed area; to take particular and reasonable care and precaution in its operations to preserve the residual timber, the young growth, and reproduction; and to take all reasonable precautions, compatible with the economic removal of the Timber, against destructive logging practices which unnecessarily damage the residual timber. Rubber-tired skidders may be used, but skid trails and loading decks must be kept to a minimum and unnecessary damage to reproduction and residual trees must be avoided. In addition, the Buyer shall not fell or drop trees or tops into any fences, fields, trails, roads, creeks, lakes or pastures on the Seller's property or on the property of any adjoining landowner and should this occur, Buyer shall remove said trees or tops immediately from such fences, fields, trails, roads, creeks, lakes or pastures by pulling them back well within the woods on the Land and Buyer, at its expense, shall promptly repair any damage which has been done by the felling, dropping or removal of such trees or tops.

5. The Buyer agrees to take all reasonable precautions against fire and to suppress immediately all fires that occur during the term of this contract, including any fire that might damage the residual timber and young growth on the Land. The Buyer shall be liable for any damages suffered by the Seller as a result of any fire resulting from the Buyer's logging activity on the Land.

6. The Buyer further agrees not to cut or remove or needlessly damage or destroy any trees other

than the Timber. If any such trees are cut, removed or needlessly damaged or destroyed, the Seller or its agent may enter upon the Land and take possession of the Timber (including those trees which have been cut and those trees which have not been cut) without notice to the Buyer. Because the damages to the Seller caused by such cutting, removal, damage or destruction would be difficult or impossible to determine, the Buyer shall be required to pay an amount to the Seller equal to the amounts as set out below for such trees which were cut, removed or needlessly damaged or destroyed as liquidated damages for such breach of this contract. For purposes of this provision, the stumpage value for the various types and sizes of timber is hereby set as follows:

<u>timber</u>	<u>price per tree</u>
pine sawtimber	\$60.00
hardwood sawtimber	\$25.50
pine pulpwood	\$ 5.65
hardwood pulpwood	\$ 1.15

For purposes of this contract, the diameter of such tree at the stump, inside bark, shall be scaled by the Doyle Scale, Form Class 80 for pine and Form Class 76 for hardwood; using "Tables for Estimating Board-Foot Volume of Timber" by Mesavage and Girard, United States Department of Agriculture, Forest Service. Any miscut pine tree with a stump diameter of ten inches or more shall be considered as pine sawtimber and any miscut hardwood tree with a stump diameter of twelve inches or more shall be considered as hardwood sawtimber, and any pine tree or hardwood tree with a diameter of less than ten inches or twelve inches, respectively, shall be considered as pine or hardwood pulpwood, respectively. If any trees other than the Timber are cut, removed or needlessly damaged or destroyed, the damages provided for herein must be paid to the Seller before the Buyer shall

have the right to continue cutting and removing the remaining Timber or removing the Timber which has already been cut.

7. The Seller agrees that the Buyer, its agents and employees shall enjoy the full right for the term of this contract to enter upon the Land and to cut and remove the Timber in the manner described above. The Buyer shall have the right to make necessary trails or passageways for the purpose of removing the Timber only if: (a) the existing roads or trails are inadequate for that purpose; (b) the Buyer does not cross or cut any exterior fences, except at established gates or gaps; and (c) the Buyer does not unnecessarily cut any standing merchantable timber for trails or loading areas. All operating equipment and machinery of the Buyer or the Buyer's contractor shall be removed from the Land by the Buyer within ten (10) days after the termination or expiration of this contract. Major haul roads and skid trails shall be made, regraded and repaired as needed during the logging operations and at the conclusion of the logging operations so that water flows into the general woodlands instead of being allowed to accumulate or to wash rapidly along the woods roads and skid trails. Buyer, at its expense, shall promptly repair all fences and other improvements which are damaged as a result of any operation of Buyer or its employees, contractors, agents or representatives. Within ten days of the termination or expiration of the terms of this contract the Buyer shall: (a) close all logging roads by piling dirt on them so that they are impassable by any type of motor vehicle; and (b) remove all trash (not including limbs or tops of the Timber that is cut) which was placed on the Land by the Buyer or its employees, contractors, agents or representatives. The Buyer shall maintain the existing roads and trails during the term of this contract and within thirty days of the

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termination or expiration of this contract the Buyer shall restore all such roads and trails to their present condition.

8. The Buyer may assign or convey any portion of the Timber to a third party, subject to the terms and conditions of this contract, but the Buyer will be directly liable and responsible to the Seller for all the actions of such third party. The Buyer agrees to assume all liability for, and shall indemnify the Seller against, all claims, demands, damages, actions, and causes of action for injury or death of any person or persons, or damage to the property of any person or persons, arising out of, or resulting from, the operations of the Buyer or any employee, assignee, agent, representative, contractor or sub-contractor of the Buyer under this contract, and for all attorneys' fees and court costs incurred by the Seller in connection therewith. The Buyer agrees to pay or have paid all timber taxes, severance taxes, wages, workmen's compensation claims, and all of the liabilities and obligations imposed on it by reason of the Buyer's operation under this contract.

9. The Seller designates, and the Buyer accepts, Vardaman as the agent of the Seller for the purposes of inspecting, checking and overseeing from time to time, the Buyer's compliance with its obligations under this contract. The Buyer agrees to notify Vardaman when its operations commence on the Land and when its operations have been completed or have been delayed for any period in excess of two weeks.

10. The Buyer shall not conduct any logging operations or cut any Timber within fifty feet of Lake Purdy.

11. The Seller has sold the Timber and the Buyer has purchased the Timber based upon the estimate of Vardaman as to the number of board feet contained there-

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in. The Buyer has satisfied itself as to the reasonable-
ness of such estimate and agrees that the accuracy of such
estimate is not a condition to its obligations under this
contract. The Seller and the Buyer agree that the amount
of the purchase price of the Timber shall not be changed,
regardless of the accuracy of such estimate made by
Vardaman.

In witness whereof, The Water Works and Sewer
Board of the City of Birmingham and Union Camp Corporation
have each caused its duly authorized corporate officer to
execute this contract as of the 2nd day of March,
1987.

The Water Works and Sewer Board
of the City of Birmingham

Peggy Casey
Witness

By: Michael O. V.
Its Asst. General Manager

Union Camp Corporation

Lind Jones
Witness

By: PK Killian
Its REGIONAL MANAGER

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STATE OF ALABAMA
JEFFERSON COUNTY

I, Peggy Casey, a Notary Public in and
for said County in said State, hereby certify that
Michael O. Vann, whose name as Asst. Gen. Mgr. of The
Water Works and Sewer Board of the City of Birmingham, a
public corporation, is signed to the foregoing contract
and who is known to me, acknowledged before me on this day
that, being informed of the contents of said contract, he,
as such officer and with full authority, executed the same
voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 2nd
day of March, 1987.

Peggy Casey
Notary Public



My Commission Expires: June 14, 1989

STATE OF ALABAMA
AUTAUGA COUNTY

I, Joan Carol Austin, a Notary Public in and for said County in said State, hereby certify that S. P. Killian, III, whose name as Regional Manager of Union Camp Corporation, a corporation, is signed to the foregoing contract and who is known to me, acknowledged before me on this day that, being informed of the contents of said contract, he, as such officer and with full authority, executed the same voluntarily for and as the act of said corporation.



Witnessed under my hand and official seal this the 2nd day of March, 1987.

Joan Carol Austin
Notary Public

My commission expires: 10/26/89

This instrument prepared by:

Frank C. Galloway, Jr.
OF COUNSEL: CABANISS, JOHNSTON, GARDNER,
DUMAS & O'NEAL
1900 First National-Southern
Natural Building
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STATE OF ALA. SHELBY CO.
I CERTIFY THIS
INSTRUMENT WAS FILED

1987 MAR -4 PM 2: 12

Thomas A. Galloway, Jr.
JUDGE OF PROBATE

1. Doc. Tax \$ 84.50
2. Mtg. Tax ---
3. Recording Fee 20.00
4. Indexing Fee 1.00
TOTAL 105.50