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Shelby Cnty Judge of Probate, AL
01/05/2005 10:12:00 FILED/CERTIFIED

**TIMBER CUTTING AGREEMENT
LUMP SUM**

STATE OF ALABAMA
COUNTY OF Shelby

THIS TIMBER SALE AGREEMENT ("this Agreement") is made and entered into on this, the 30 day of December 2004, by and between Roosevelt and Jackie Spates (Hereinafter referred to as the "Seller") and Blue Ox Forestry, Inc. (Hereinafter referred to as the "Buyer") and for the considerations hereinafter stated the party's consent and agree as follows:

SECTION 1: SALE OF TIMBER. That, the undersigned Sellers, for and in consideration of the sum of Ninty Two Thousand One Hundred Eighty One (\$92,181.00) dollars * paid and to be paid by the Buyer, of which sum Sellers acknowledges the receipt from Buyer and subject to the terms, covenants, conditions, and agreements hereinafter set forth. Sellers does hereby grant, bargain, sell and convey to the Buyer the specified merchantable timber standing and growing on the following described real property (hereinafter called the "Property") situated in Shelby County, Alabama, together with the right to cut and remove all merchantable timber except as found in the SMZ buffer strip as per the Timber Sale Map. See Exhibit A.

SECTION 2: PROPERTY DESCRIPTION. SEE EXHIBIT A.

SECTION 3: WARRANTY OF TITLE. Sellers expressly covenants and agrees with the Buyer that Sellers are lawfully seized in fee simple of the timber and/or trees hereinabove described and conveyed; that the same are free from any and all liens, mortgages and encumbrances; that Sellers have a good and perfect right to sell and convey the same as aforesaid; and that Sellers does and will, and his successors, executors and administrators shall, forever warrant and defend the title to said timber and/or trees, and the possession thereof, unto Buyer, its successors and assigns, against the lawful claims of any and all persons whomsoever.

SECTION 4: RIGHT OF ENTRY. Sellers hereby gives and grants unto the Buyer the right to enter the Property and to cut and remove therefrom the timber and/or trees hereby conveyed, it being expressly understood, however, that in cutting and removing said timber and/or trees the Buyer shall not cut from or off of the Property any timber and/or trees other than those hereby conveyed, except such small timber or trees as may be necessary to cut and remove in felling, cutting and removing said timber and/or trees hereby conveyed, or in order to open up necessary roadways to enable the Buyer to haul from the Property the timber and/or trees hereby conveyed when on roadway is otherwise available.

SECTION 5: INDEMNIFICATION. Buyer shall indemnify and hold Sellers harmless from and against any and all liability whatsoever from damages to any person or thing, and from any loss, damage or expense, including reasonable attorney's fees and other costs of litigation, arising out of or connected with the cutting, logging or other operations of Buyer under this Agreement or of Buyer's agents, assignees, servants, employees, contractors or subcontractors.

SECTION 6: FIRE SUPPRESSION. Buyer agrees to use reasonable precaution against fires starting on the Property, and in the event fires occur on the Property or on any other land of Sellers in the vicinity thereof, the Buyer shall immediately notify the Sellers and the State Division of Forestry of the location of the fire, and shall use reasonable means to extinguish said fire and to prevent damage to timber, trees and timber growth on said land.

SECTION 7: SEVERANCE TAXES. Buyer shall report and pay to the State of Alabama the Forest Products Severance Tax for timber and pulpwood cut under this Agreement. The parties intend Buyer to pay and be fully responsible for all severance and like taxes imposed because of the cutting of the timber under this Agreement.

SECTION 8: NON-INTERFERENCE. Except to the extent caused by cutting and removing timber pursuant to the provisions of this Agreement, Buyer, in the exercise of the rights herein granted, shall not in any way interfere with the reasonable use by the Sellers of the Property or with the reasonable use by grantees, contractors, or agents of the Sellers or any portion of the Property under rights heretofore or hereafter granted by the Seller.

* 50% PAID IN 2004, 50% PAID IN 2005

SECTION 9: CONTROL OVER OPERATIONS. Sellers shall have no right, and Sellers retains no right, with regard to the details of the work, personnel of the workers, or the hours of work, or other conditions of the employment of those employed or engaged or used by the Buyer, or any contractor of the Buyer, in the performance of any work on the Property.

SECTION 10: CONVEYANCE BY BUYER. Buyer is hereby given and granted the privilege of conveying to others all of the timber and/or trees hereby conveyed and all of the rights with reference thereto hereby vested in the Buyer. Notwithstanding for proceeding, Buyer shall be responsible to Sellers for all the actions of any purchaser, contracting third party, assignee, contractor or subcontractor with respect to any actions of such party in, on or about the Property.

SECTION 11: CUTTING PERIOD. This Agreement, and the rights herein granted, shall become effective on the date hereof and shall terminate and end on the earlier of the date on which all of the timber hereby conveyed is cut and removed or that date which is December 31, 2006. All of the rights and interests of the Buyer hereunder shall cease and terminate and the title to all timber and/or pulpwood then standing, lying or growing on the Property shall revert to the Sellers.

R/S **SECTION 12: PERFORMANCE BOND.** Buyer will make an additional payment at closing of ~~\$2~~ \$1,000 to the Sellers for the faithful performance of the contract. The funds will be returned upon the satisfactory completion of the timber sale agreement. The Performance Bond is additional security for the Buyer's performance of this contract, and does not limit or abridge all other remedies available to the Sellers for the Buyer's breach or nonperformance of all or any part of the contract.

SECTION 13: DISPUTES: ARBITRATION AGREEMENT. All disputes and/or claims arising out of, or related, in whole or in part, to this contract including, but not limited to, the circumstances surrounding its execution and/or performance, shall be settled by submission to an arbitration board comprised of three registered Foresters in the state of Alabama; one to be selected by each party to this contract and the third to be selected by the two selected arbitrators. The Buyer and Sellers shall pay the charges of the arbitrator selected by it, and shall share the charges of the third arbitrator and all other costs of arbitration equally. The decision by the arbitration board shall be final and binding on the parties.

SECTION 14: INSURANCE. Buyer agrees for itself and its contractors to carry the following insurance with insurers satisfactory to Sellers, and if requested, furnish evidence of such insurance:

- (A) Workers Compensation and Employer's Liability Insurance fully covering Buyers operations hereunder.
- (B) Comprehensive Vehicle Liability Insurance, including owned, hired and non-Owned vehicle, with limits not less than \$100,000/\$300,000 bodily injury and \$100,000 property damage liability each occurrence or \$300,000 combined Single limit coverage; and
- (C) Comprehensive General Liability Insurance, including all contractual liability Hereunder, with limits not less than \$500,000 bodily injury liability and \$250,000 property damage liability each occurrence or \$500,000 combined Single limit coverage.

SECTION 15: SPECIAL COVENANTS OF BUYER. Buyer contracts, agrees and covenants with the Sellers (it) to cut and remove all timber in a good and workmanlike manner, (ii) to restore and repair any damage or destruction to fences or roads to the condition prior to such damage or destruction, (iii) to keep all gates closed, (iv) to repair all rutting of road, fields and pastures to the condition of such roads, fields and pastures prior to the commencement of logging, (v) to remove all butts, tops, limbs or other debris resulting from timber operations from any roads fields, trails, all-weather creeks, or mowed areas on Sellers and/or adjacent lands.

SECTION 16: FORESTRY BEST MANAGEMENT PRACTICES. Buyer shall conduct all of its operations in compliance with forestry best management practices, more particularly described herein:

1. Forestry Best Management Practices have been developed by the State of Alabama. Sellers requires Buyer to fully comply with that Best Management Practices applicable to Buyer's operation hereunder. See exhibit B.
2. In the event the BUYER violates any of the requirements above, SELLER Shall have the right to order that BUYER immediately stop harvesting Operations and demand that BUYER repair the damage resulting from the Violation. The operations will be allowed to continue only after BUYER has Repaired the damage and provided SELLERS with satisfactory evidence that BUYER will and can comply with the provisions contained herein. BUYER Shall repair any damage and provide such satisfactory evidence as soon as Practicable, which in no event shall exceed thirty (30) days unless SELLER Agrees, in writing, to an extension, which agreement shall not be withheld Unreasonably. If BUYER fails or refuses to meet these obligations,SELLER Shall have the option to immediately advise the BUYER to enter arbitration. TheAbitration board shall have total use of the Performance Bond Funds.

SECTION 17: STUMP HEIGHTS RESTRICTIONS. Buyer shall cut all trees as close to the ground as practicable, but in no event shall height of pine or hardwood stumps exceed six (6") inches or one-half (1/2) the average stump diameter, whichever is greater.

SECTION 18: MISCELLANEOUS. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Alabama. In the event that either party hereto shall breach this Agreement, the party required to enforce the provisions hereof may begin process of settlement by notifying the other party in writing to carry dispute to arbitration. This Agreement constitutes the entire understanding between the parties with respect to the subject matter and shall supersede all prior agreements, options and understandings between the parties to such subject matter. The headings of the sections of this Agreement, where employed, are for the convenience of reference only and do not form a part hereof and in no way modify, interpret or construe the meanings of the parties.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be duly executed, in duplicate originals, by their representatives thereunder duly authorized, on the date first hereinabove written.

WITNESSES:

Fred Harmer
Fred Harmer

WITNESSES:

Fred Harmer

SELLER:

By Roosevelt Sptates
Roosevelt Sptates
By Jackie Sptates
Jackie Sptates

BUYER:

By George S. Gann
Its General Manager

SN# or IRS Tax NO:

273 SPATES DRIVE
HARPERSVILLE, AL 25078

205
PH: 672 2236

EXHIBIT A.

TIMBER SALE HARVEST MAP LUMP SUM

Fact

SPATES

**County
Shelby**

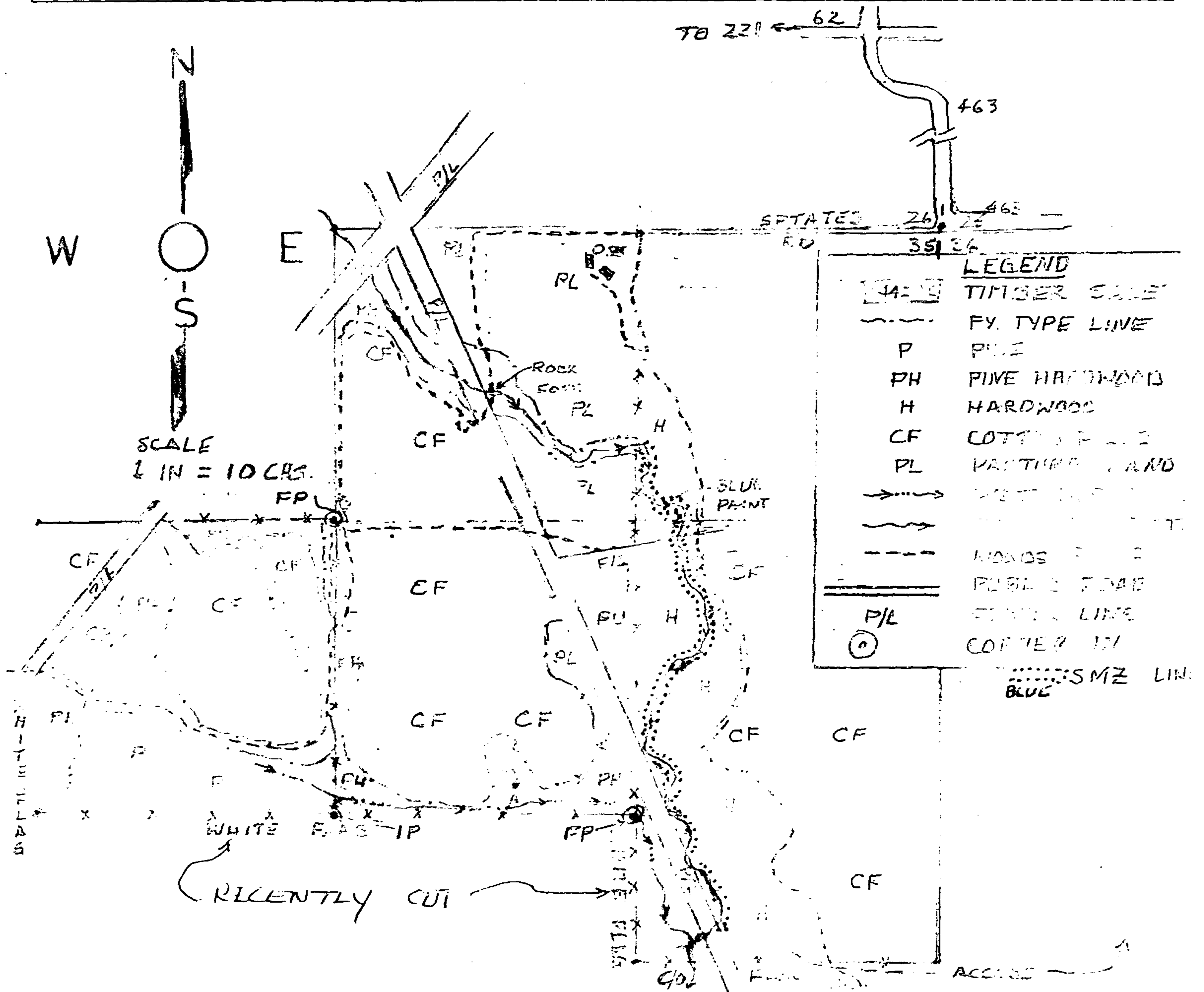
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Date
10/22/84

By
FH



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LEGAL DESCRIPTION

All merchantable timber as shown in the above Timber Sale Map described as follows: SE1/4 NW1/4 ; SW1/4 NE1/4 ; SE1/4 NE1/4 ; N1/2 NE1/4 SE1/4; All containing 4 1/2 acre More or Less and located in Shelby , Alabama.

7/11.

EXHIBIT -B-
FORESTRY BEST MANAGEMENT PRACTICES

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1. Forestry Best Management Practices have been developed by the State of Alabama. Seller Requires _____ BUYER/CONTRACTOR to fully comply with those Best Management Practices applicable to the operations hereunder including, but not limited to, the following:

- (A) SELLER has designated by marking the SMZ's with blue paint and/or blue Flagging within the sale area certain Streamside Management Zones (SMZ's). SMZ's are protected areas bordering lakes, streams or water courses where only limited harvesting operation Will be permitted and only in such a manner to protect the integrity, water Quality, wildlife habitat and other values of lakes, stream courses, streambeds And banks. Felling, skidding, stream crossings, temporary roads, landing locations In addition, associated operations will strictly conform to the recommendations set forth In the Best Management Practices and shall specifically include the following:
- (i) All trees within or bordering SMZ's shall be felled so that treetops land Away from water bodies and stream courses and in a way to minimize Skidder maneuvering within the SMZ.
 - (ii) BUYER/CONTRACTOR shall immediately remove any debris from Water bodies or stream courses that result from its harvesting operations.
 - (iii) BUYER/CONTRACTOR shall fell trees in a perpendicular manner Away from water bodies or stream courses.
 - (iv) BUYER/CONTRACTOR shall not operate skidders within 50 feet of Active streams or other water bodies.
 - (v) Stream courses will not be used for skidding operations, even when they Are temporarily dry.
 - (vi) All stream crossings and logging road locations must have prior approval Of SELLER/or AGENT.
 - (vii) After completing operations, BUYER/CONTRACTOR agrees to Promptly remove all temporary fill materials and restore lake and stream Bank contours at all crossings.
- (B) Before any extended interruption in harvesting operations and upon completion of Its operations, BUYER/CONTRACTOR agrees to condition primary skid trails, Stream crossings and landings to prevent erosion. Such conditioning shall Include the construction of water bars, dips, diversion ditches, revegetation and Such other measures as are otherwise appropriate under the conditions.
- (C) BUYER/CONTRACTOR agrees to prohibit and prevent the discarding and Accumulation of any litter, trash or other debris associated with its operations on The sale lands including, but not limited to, equipment servicing materials. BUYER/CONTRACTOR agrees to pay damages to SELLER of \$ 50.00 for Each instance of litter discovered on the sale area after operations are complete.
- (D) BUYER/CONTRACTOR shall use all possible care while conducting the Harvesting of the timber conveyed hereunder so as not to materially damage the Land on which the timber is situated, such as not logging when the site is Abnormally wet.
- (E) Operational Provisions:
- LICENSEE/CONTRACTOR agrees to not deck, top or skid within existing Food plot areas.
- LICENSEE/CONTRACTOR agrees to not allow logging slash to accumulate Or pile up on or around deck areas and shall if possible locate decks and delimbing gates away from public view.

2. In the event BUYER/CONTRACTOR violates any of the requirements set forth above, OWNER shall have the right to order that BUYER/CONTRACTOR immediately stop its Harvesting operations and repair the damage resulting from the violation. If BUYER/ CONTRACTOR fails or refuses to meet these obligations, SELLER shall have the option To immediately terminate BUYER'S/CONTRACTOR'S right to enter upon the lands and/or Enter arbitration.

BUYER/CONTRACTOR

George S. Gumm