

**Forest Service Handbook
National Headquarters - Washington Office
Washington, DC**

**Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements
Handbook
Chapter 70 - Partnership Agreements**

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

Duration: This amendment is effective until superseded or removed.

Approved by: Charles L. Myers, Deputy Chief, OPS

Date approved: October 15, 2009

Responsible Staff:

Last Change: 1509.11-2001-1 to 1509.11_70

Superseded Document(s): 1509.11 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,0 Code Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,0 Code, Amendment 1509.11-95-1, April 21, 1995; 1509.11,10 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11_10-13, Amendment 1509.11-95-1, April 21, 1995; 1509.11_14-15, Amendment 1509.11-95-1, April 21, 1995; 1509.11,20 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11_20, Amendment 1509.11-95-1, April 21, 1995; 1509.11, 30 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,30, Amendment 1509.11-95-1, April 21, 1995; 1509.11,40 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,40, Amendment 1509.11-95-1, April 21, 1995; 1509.11,50 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,50, Amendment 1509.11-95-1, April 21, 1995; 1509.11,60 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,60, Amendment 1509.11-95-1, April 21, 1995; id_1509.11-2008-1, July 07, 2008; 1509.11,70 Contents, Amendment 1509.11-95-1, April 21, 1995; 1509.11,70-73, Amendment 1509.11-95-1, April 21, 1995; 1509.11_72_ex. 01, Amendment 1509.11-2001-1, February 09, 2001; 1509.11,73,Ex. 01, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 02-03, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 04-17, Amendment 1509.11-96-1, April 15, 1996; 1509.11,73,Ex. 10, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 11, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 15, Amendment 1509.11-95-1, April 21, 1995; 1509.11,73,Ex. 16, Amendment 1509.11-95-1, April 21, 1995; 1509.11,75, Amendment 1509.11-96-2, April 15, 1996; id_1509.11-2008-2, July 07, 2008

Digest: Following is an explanation of the changes throughout the directive by section.

Zero Code: Removes chapter in its entirety.

03: Removes policy statements. Removes paragraph 1 and recodes to FSM 1580, section 1580.35. Removes paragraph 2 and 3 and recodes to chapter 10, section 13.71 and 13.72, respectively of this handbook. Removes paragraph 4 and recodes to chapter 10, section 13.83 of this handbook.

10: Removes chapter title and direction “Federal Financial Assistance” and recodes title and direction to chapter 20 of this handbook.

Establishes title “Grants & Agreements Administration” and recodes to this chapter relevant direction previously set out in chapters 10 through 60 of this handbook for the processes and procedures that are common to all FSM 1580 grants and agreements.

Removes preamble text. Reorganizes, revises, and sets forth new direction, and replaces the reference to “Grants and Agreements” with “G&A” throughout chapter.

Replaces all references to “Grants Coordinator” with “G&A specialist” and “Program Official” with “program manager.”

10.5: Adds new definitions for the following terms: “de-obligation,” “inherently governmental function,” and “vendor’s informed knowledge.”

11: Establishes code, caption, and sets forth new direction for “Ethics and FSM 1580 Instruments.”

12: Establishes code, caption, and sets forth new direction for “I-Web.”

13: Recodes to this section direction previously set out in FSH 1509.11, Zero Code.

Reorganizes and clarifies direction on Master and Supplemental Project Agreements and Regionwide Memorandum of Understanding.

Sets forth new direction on the Principle Purpose Test, Strawman prohibitions, Washington Office Master and Supplemental Participating or Challenge Cost-Share Agreements, and Master and Supplemental Agreement Formats.

14: Revises and clarifies direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Instruments,” and sets forth new direction on the *Bona Fides* Needs Rule, agreement type alpha codes, agreement numeric codes for regions Budget Object Codes, and Grants and Agreements with Funding that Exceeds 1 Year.

Recodes to this direction previously set out in FSH 1509.11, Zero Code, on Federal Identifier Number.

15: Revises and clarifies direction for “Procedures for Administering Instruments,” such as project monitoring and ratifications.

16: Changes caption from “Procedures for Close-out of Domestic and International Grants or Cooperative Agreements” to “Procedures for De-obligation and/or Close-out of Instruments” And sets forth new direction for these procedures and instruments.

17: Recodes to this section direction previously set out in FSM 1580.7, “Grants & Agreements Certification.”

20: Removes chapter direction and title on “Exempted Agreements” and recodes title and direction to chapter 30 of this handbook. Recodes to this chapter direction which was previously set out in chapter 10 of this handbook. Changes chapter title from “Grants & Cooperative Agreements (Federal Financial Assistance)” to “Federal Financial Assistance (Grants and Cooperative Agreements).” Reorganizes and revises direction throughout the chapter. Refers to Grants and Agreements as G&A throughout chapter.

20.1: Adds cross-references to new authorities. Removes obsolete authorities including the “America the Beautiful Act of 1990;” “Youth Conservation Corps Act of 1970;” and the “National and Community Service Act of 1990.” Removes authorities that do not have a valid CFDA number, including: “National Agricultural Research, Extension, and Teaching Act of 1977;” “National Trails System Act;” “Wild and Scenic Rivers Act;” and the “Federal Noxious Weeds Act of 1974.”

Adds exhibit 01 which is a matrix on all current Forest Service authorities/programs with their respective CFDA numbers.

20.3: Establishes code and caption “Policy” and clarifies policy statements, including: uses of FFA, how to choose the appropriate instrument, better defining Grants and Cooperative Agreements (substantial involvement); principal investigators, Federal Assistance Award Data System (FAADS), Federal Funding Accountability and Transparency Act of 2006 (FFATA), Forest Service as recipient, information collections, yearend awards, Civil Rights requirements, and environmental assessments.

20.5: Establishes code and caption “Definitions” and adds definitions specific to Federal financial assistance.

21: Adds the authority “Appropriation through 2005 Omnibus Bill, Public Law 108-447; Public Law 108-148.”

22: Adds language on Catalog of Federal Domestic Assistance (CFDA) requirements for Federal financial assistance programs.

22.5: Adds guidance on the use of SF-424 Research and Related forms for research related Federal financial assistance.

29: Establishes code and caption “Samples.”

29.1 through 29.36: Establishes code and caption and sets forth exhibits for an International Grant Award Letter, a Cooperative Agreement Award Letter, Application Package, SF-424, SF-424a, SF-424b, AD-1047, AD-1052, and Project Narrative respectively.

30: Removes chapter direction and title on “Collections Agreements” and recodes title and direction to chapter 40 of this handbook.

Recodes to this chapter direction which was previously set out in chapter 20 of this handbook.

Changes chapter title from “Exempted Agreements” to “Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements.”

Reorganizes and revises direction throughout the chapter.

Removes direction on collection agreements and recodes direction to chapter 40 of this handbook.

Removes references to OMB exemptions.

Replaces the reference to “Grants and Agreements” with “G&A” throughout the chapter.

30.5: Establishes code and caption “Definitions” and adds definitions for “jurisdictional agency,” “OMB exempted agreements,” “protecting agency,” and “supporting agency.”

31: Establishes caption “Statutory Requirements and Formats” and sets forth new direction in this section for Cooperative Law Enforcement, Forest Road, and Cooperative Fire Agreements.

32: Establishes caption “Procedures for Initiating, Negotiating, Formatting, and Executing Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for initiating, negotiating, formatting, and executing these agreements

33: Establishes caption “Procedures for Administering Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for administering these agreements.

34: Establishes code and caption “Performance Reports and Monitoring for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the reporting and monitoring these agreements.

35: Establishes code and caption “Procedures for Evaluating, Negotiating, Formatting, and Executing Modifications for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for these agreement procedures.

36: Establishes code and caption “Terminations, Suspensions and Debarments, or Other Considerations for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for these agreement procedures.

37: Establishes code and caption “Procedures for Close-out for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the close-out of these agreements.

38: Establishes code and caption “Audits and Site Visits for Cooperative Law Enforcement, Forest Road, and Fire Protection Agreements” and sets forth in this section new direction for the audits and site visits of these agreements.

39: Establishes code and caption “Samples.”

39.1 through 39.5: Establishes codes and captions and sets forth in these sections exhibits for FS-1500-8, FS-1500-8a, FS-1500-9, FS-1500-9a, and FS-1500-7, respectively.

40: Removes chapter title and direction on “Interagency and Intra-Agency Agreement” and recodes title and direction to chapter 50 of this handbook.

Recodes to this chapter direction and title “Collection Agreements” previously set out in chapter 30 of this handbook. Reorganizes, revises, and clarifies direction throughout chapter.

Refers to “Grants and Agreement” as “G&A” throughout the chapter.

40.1: Removes obsolete cross-reference to The Acceptance of Gifts Act of October 10, 1978.

40.3: Establishes code and caption and sets forth in this section new policy statements.

40.4: Establishes code and caption “Responsibility” and sets forth in this section direction for responsibilities for collection agreements

41: Removes obsolete direction and caption “General Discussion” and sets forth new direction and caption “Statutory Requirements and Formats.”

42: Removes obsolete direction and caption “Endorsement, Conflicts of Interest, and Solicitation” and recodes ethics direction to FSH 1580.

Recodes to this section direction and caption “Procedures for Initiating, Negotiations, Formatting, and Executing Collection Agreements” previously set out in section 33 of this

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handbook. Removes obsolete direction, revises, clarifies, and sets forth new direction for collection agreements.

43: Removes direction and caption “Procedures for Initiating, Negotiations, Formatting, and Executing Collection Agreements” previously set out in section 33 and recodes to section 42 of this handbook.

Recodes to this section direction previously set out in section 34. Changes caption from “Procedures for Administering Collection Agreements and Acceptance of Gifts and Donations” to “Procedures for Administering Collection Agreements.” Removes obsolete reference to procedures for acceptance of gifts and donations.

44: Removes direction and caption “Procedures for Administering Collection Agreements and Acceptance of Gifts and Donations” previously set out in section 34 and recodes to section 43 of this handbook.

Establishes caption “Performance Reports” and adds cross-reference to chapter 10.

45: Removes direction and caption “Procedures for Close-out of Collection Agreements (Contributions)” previously set out in section 35. Establishes caption “Procedures for Evaluating, Negotiating, Formatting, and Executing Modifications to Exempted Agreements” and sets forth new cross-references to this section.

46: Establishes code and caption “Terminations, Suspensions and Debarments, or Other Considerations” and sets forth new cross-references to this section.

47: Establishes code and caption “Procedures for Close-out of Collection Agreements” and sets forth new cross-reference to this section.

49: Establishes code and caption “Samples.”

49.1, 49.2, and 49.3: Establish codes and captions and sets forth in these sections exhibits for FS-1500-11, FS-1500-11a, and FS-1500-11b, respectively.

50: Removes chapter title and direction on “Memorandum of Understanding and Letters of Intent” and recodes title and direction to chapter 60 of this handbook.

Recodes to this chapter direction previously set out in chapter 40 of this handbook. Changes chapter title from “Interagency and Intra-Agency Agreement” to “Interagency Agreements.” Reorganizes, revises, and clarifies direction throughout chapter.

Removes obsolete direction on Intra-agency agreements from this chapter.

Refers to “Grants and Agreements” as “G&A” throughout chapter.

50.1: Adds new authorities: Service First, P.L. 106-291, Section 330 as amended by P.L. 109-54, Title IV, Section 428 and 7 USC 6915. Removes reference to 7 USC 2204a(2).

50.3: Establishes code and caption “Policy” and adds new policy statements.

50.5: Establishes code and caption “definitions” and sets forth definitions for new terms “buyer,” “interagency agreement,” and “seller.”

51: Changes caption from “General Discussion” to “Statutory Requirements and Formats.” Sets forth new direction for this section. Recodes to this section direction previously set out in section 42 of this handbook.

52: Removes caption and direction for “Requirements.” Recodes direction on requirements to section 51 of this handbook.

Recodes to this section caption and direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Interagency Agreements” previously set out in section 43 of this handbook.

53: Removes caption and direction for “Procedures for Initiating, Negotiating, Formatting, and Executing Interagency and Intra-Agency Agreements” and recodes to section 52.

Recodes to this section direction previously set out in section 44, and changes caption from “Procedures for Administering Interagency or Intra-Agency Agreements” to “Procedures for Executing and Administering Interagency Agreements.”

54: Removes caption and direction for “Procedures for Administering Interagency or Intra-Agency Agreements” and recode direction to section 53 of this handbook.

Recodes to this section direction previously set out in section 45 of this handbook, and changes caption from “Procedures for Closeout of Interagency or Intra-Agency Agreements” to “Procedures for De-obligation and/or Close-out of Interagency Agreements.”

55: Establishes code, caption, and sets forth new direction for “Ratification” requirements.

59: Establishes code and caption “Samples.”

59.1 and 59.2: Establishes code and captions and sets forth in these sections exhibits for AD-672 and FS-1500-6, respectively.

60: Removes chapter title and direction “Other Agreements” and recodes title and direction to chapter 70 of this handbook. Recodes to this chapter direction which was previously set out in chapter 50 of this handbook. Changes chapter title from “Memoranda of Understanding and

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Letters of Intent” to “Memorandum of Understanding.” Refers to “Grants and Agreements” as “G&A,” and reorganizes and revises direction throughout chapter.

69: Establishes code and caption “Sample MOU.”

69.1: Establishes code and caption and sets forth exhibit in this section for FS-1500-15.

70: Removes chapter title and direction and recodes direction to chapter 90 of this handbook. Recodes to this chapter direction which was previously set out in chapter 60 of this handbook. Changes chapter title from “Other Agreements” to “Partnership Agreements.” Recodes, reorganizes, and revises direction throughout chapter. Removes the preamble and replaces with chapter organizational information. Refers to grants and agreements as “G&A” throughout the chapter.

70.1: Adds cross-reference to the Wyden authority.

70.5: Establishes code and caption “Definitions” and sets forth definitions for new terms: “allocable cost,” “allowable cost,” “direct costs,” “indirect costs,” “in-kind contributions,” “mutual benefit,” “mutual interest,” “reasonable cost,” and “teaching and education.”

71: Removes obsolete direction and caption “General Discussion” and replaces with caption “Authorities by Agreement Type” and sets forth a list of all FSM 1580 Partnership Agreements with the applicable authorities.

72.4: Establishes code and caption “National Agricultural Research, Extension, and Teaching Policy Act of 1977” and sets forth new direction on International Joint Ventures. Revises and clarifies direction on Joint Ventures and Cost-Reimbursable Agreements.

78: Establishes code, caption, and sets forth new direction in this section on “Terminations, Suspensions and Debarments, or Other Considerations.”

79: Establishes code and caption “Samples.”

79.1 through 79.9: Establishes codes and captions and set forth in these sections exhibits for FS-1500-16, FS-1500-16c, FS-1500-16a, FS-1500-16b, FS-1500-10, FS-1500-10a, FS-1500-10b, FS-1500-14, FS-1500-14a, FS-1500-12, FS-1500-13, FS-1500-13a, FS-1500-13b, and FS-1500-13c, respectively.

80: Establishes chapter and title “Termination and Suspension and Debarment,” and sets forth new direction in this chapter for ending an agreement. Refers to grants and agreements as G&A throughout chapter.

90: Establishes chapter and recodes to this chapter direction previously set out in chapter 70 of this handbook. Changes chapter title from “Assurances and Standard and Discretionary Provisions” to “Standard and Discretionary Provisions and Assurances.” Revises entire chapter. Removes obsolete direction on provisions; revises and clarifies direction on international provisions; and sets forth new direction, form numbers, and examples for provisions. Refers to the term “grants and agreements” as “G&A” throughout the chapter.

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79.7 – FS-1500-12 Cost Reimbursable Agreement Sample

79.7 – Exhibit 01

FS-1500-12 Cost Reimbursable Agreement Sample



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OMB 0596-0217

FS-1500-12

FS Agreement No.

09-CR-11149755-033

Cooperator Agreement No.

2009-BIO-044

COST-REIMBURSABLE AGREEMENT

**Between The
UNIVERSITY OF MAINE
And The
U.S. FOREST SERVICE
NORTHERN RESEARCH STATION**

This COST-REIMBURSABLE AGREEMENT is hereby made and entered into by and between the University of Maine, hereinafter referred to as the University, and the U.S. Forest Service Northern Research Station, hereinafter referred to as the Forest Service, under the provisions of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (Pub. L. 95-113), as amended by the Food Security Act of 1985 (7 U.S.C. 3319a, Pub. L. 99-198).

Title: Role of fungi in biotransformation of wood and base cation cycling in northeastern forests.

- I. **PURPOSE:** The purpose of this agreement is to document the cooperation between the parties to complete the sampling and chemical analysis of decaying stemwood from year 15 of an existing long-term study.
- II. **STATEMENT OF MUTUAL INTERESTS:**
 - A. The Forest Services interest in this agreement is to evaluate the importance of coarse woody deposition to maintain healthy forests.
 - B. The University's interest in this agreement is to evaluate the activity of decay fungi that influence forest structure and resilience.
 - C. The Forest Service and the Cooperator are mutually interested in understanding the role of wood decay in the maintenance of foil fertility.

79.7 – Exhibit 01--Continued



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III. THE UNIVERSITY SHALL:

- A. LEGAL AUTHORITY: The University shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Perform the following tasks and ensure the Forest Service receives all of the deliverables from this study:
 - 1. Assist in the collection of field samples.
 - 2. Complete the chemical analysis of wood and soil.
 - 3. Initiate analysis of archived samples of wood for comparison
- C. In accordance with 7 U.S.C. 3319a, any personal service research activities completed for this agreement shall be performed by University employees who receive salary, leave, and medical benefits from the institution. Personal service research is defined as, “any person(s) who appears, by the performance of the service, to be employed and supervised by Forest Service personnel.” (See FAR 37.104(c) for a more complete definition of personal service.) All other “services” shall be performed by in-house University personnel. Sub-contracts are not authorized for this agreement.
- D. Collaborate with the Forest Service in the preparation of a mutually acceptable, detailed study plan. Submit one copy of the plan to the Forest Service Technical Representative and one copy to the Forest Service Administrative Contact, and conduct this study in compliance with the study plan as well as the provisions of this agreement.

IV. THE FOREST SERVICE SHALL:

- A. PAYMENT/REIMBURSEMENT. The Forest Service shall reimburse the Cooperator for the Forest Service's share of actual expenses incurred, not to exceed \$5,000, as shown in the Financial Plan. The Forest Service shall make payment upon receipt of the Cooperator's quarterly invoice. Each invoice from the Cooperator shall display the total project costs for the billing period, separated by Forest Service and Cooperator

79.7 – Exhibit 01--Continued



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share. In-kind contributions must be displayed as a separate line item and must not be included in the total project costs available for reimbursement. The final invoice must display the Cooperator's full match towards the project, as shown in the financial plan, and be submitted no later than 90 days from the expiration date.

Each invoice must include, at a minimum:

- 1) Cooperator name, address, and telephone number
- 2) Forest Service agreement number
- 3) Invoice date
- 4) Performance dates of the work completed (start & end)
- 5) Total invoice amount for the billing period
- 6) Statement that the invoice is a request for payment by 'reimbursement'
- 7) If using SF-270, a signature is required.
- 8) Invoice Number, if applicable

The invoice must be forwarded to:

USDA Forest Service
Albuquerque Service Center
Payments – Grants & Agreements
101B Sun Ave NE
Albuquerque, NM 87109

FAX: 877-687-4894

- B. Collaborate with the University in the preparation of a mutually acceptable statement of work with clear deliverables. Forest Service personnel will cooperate by providing experience and expertise to the University in defining the objectives and approaches to the supplies or services and will identify tasks to be performed by the Forest Service toward completion of the work.
- C. Provide guidance, advice, consultation, and co-leadership essential to the satisfactory accomplishment of this agreement.
- D. Make field visits and arrange for technical review of collected data.
- E. Co-author publication(s) of research findings.

79.7 – Exhibit 01--Continued



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V. IT IS MUTUALLY AGREED AND UNDERSTOOD BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this instrument.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Dr. Jody Jellison Address: 313 Hitchner Hall, U of Maine City, State, Zip: Orono, ME 04469 Telephone: (207) 222-3333 FAX: (207) 2223334 Email: jjellison@ume.edu	Name: M. Hastings Address: University of Maine City, State, Zip: Orono, ME 04468 Telephone: (207) 222-3335 FAX: (207) 222-3336 Email: mhastings@ume.edu

Principal Forest Service Contacts:

Forest Service Program Contact	Forest Service Administrative Contact
Name: Kevin T. Smith Address: Northern Research Station City, State, Zip: Durham, NH 09899 Telephone: (603) 444-5555 FAX: (603) 444-5556 Email: ksmith@fs.fed.us	Name: Jay Berg, Jr. Address: Northern Research Station City, State, Zip: Saint Paul, MT 55108 Telephone: (651) 444-5557 FAX: (651) 444-5558 Email: jberg@fs.fed.us

- B. NON-LIABILITY. The Forest Service does not assume liability for any third party claims for damages arising out of this instrument.
- C. NOTICES. Any communications affecting the operations covered by this agreement given by the Forest Service or the Cooperator are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

79.7 – Exhibit 01--Continued



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To the Forest Service Program Manager, at the address specified in the agreement.

To the Cooperator, at the Cooperator's address shown in the agreement or such other address designated within the agreement.

Notices are considered effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. PARTICIPATION IN SIMILAR ACTIVITIES. This agreement in no way restricts the Forest Service or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. MEMBERS OF U.S. CONGRESS. Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.
- F. DRUG-FREE WORKPLACE.
- a. The Cooperator agrees that it will publish a drug-free workplace statement and provide a copy to each employee who is engaged in the performance of any project/program that receives Federal funding. The statement must:
- (1) Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
 - (2) Specify the actions the Cooperator will take against employees for violating that prohibition; and
 - (3) Let each employee know that, as a condition of employment under any agreement, the employee
 - (i) Must abide by the terms of the statement, and
 - (ii) Must notify you in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and must do so no more than five calendar days after the conviction.

79.7 – Exhibit 01--Continued



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b. The Cooperator agrees that it will establish an ongoing drug-free awareness program to inform employees about

- (1) The dangers of drug abuse in the workplace;
- (2) The established policy of maintaining a drug-free workplace;
- (3) Any available drug counseling, rehabilitation and employee assistance programs; and
- (4) The penalties that may be imposed upon the employee for drug abuse violations occurring in the workplace.

c. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this instrument, whichever occurs first.

d. The Cooperator agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the agreement number of each instrument on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after the Cooperator learns of the conviction.

e. Within 30 calendar days of learning about an employee's conviction, the Cooperator must either

- (1) Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
- (2) Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

79.7 – Exhibit 01--Continued



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- G. **NONDISCRIMINATION.** The cooperator shall comply with all Federal statutes relating to nondiscrimination. This includes all applicable requirements of all other Federal laws, Executive orders, regulations, and policies. These include, but are not limited to Sections 119 and 504 of the Rehabilitation Act of 1973 as amended, which prohibits discrimination on the basis of race, color, religion, sex, age, national origin, marital status, familial status, sexual orientation, participation in any public assistance program or disability.
- H. **ELIGIBLE WORKERS.** The Cooperator shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). The Cooperator shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract awarded under this instrument.
- I. **STANDARDS FOR FINANCIAL MANAGEMENT.**

1. Financial Reporting

The Cooperator shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

The Cooperator shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

The Cooperator shall maintain effective control over and accountability for all Forest Service funds, real property, and personal property assets. The Cooperator shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. The Cooperator shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

79.7 – Exhibit 01--Continued



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4. Source Documentation

The Cooperator shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

- J. INDIRECT COSTS: In accordance with 7 U.S.C. 3319a, the Cooperator shall not be reimbursed for indirect costs exceeding 10 percent of the total direct costs.
- K. HEALTH & HUMAN SERVICES PAYMENT MANAGEMENT SYSTEM (HHS PMS). Cooperators identified for use of this payment system shall designate a financial institution or an authorized payment agent through which a direct deposit may be made in accordance with current HHS PMS system requirements. The Albuquerque Service Center is responsible for soliciting initial enrollment in the HHS PMS. Any subsequent changes to banking information are made by the Cooperator through the HHS PMS.
- L. OVERPAYMENT. Any funds paid to the Cooperator in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by the Cooperator to the Forest Service:
- Any interest or other investment income earned on advances of agreement funds;
or
 - Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned.

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Cooperator.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

79.7 – Exhibit 01--Continued



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- M. INSTRUMENT CLOSE-OUT. The Cooperator shall close out the instrument within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to the Cooperator must be immediately refunded to the Forest Service, including any interest earned.

Within a maximum of 90 days following the date of expiration or termination of this instrument, all financial performance and related reports required by the terms of the instrument must be submitted to the Forest Service by the Cooperator.

If this instrument is closed out without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- N. PROGRAM PERFORMANCE REPORTS. The Cooperator shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.

The Cooperator shall submit an annual performance reports to the Forest Service Program Manager and one copy to the Forest Service Administrative Contact. These reports are due 90 days after the reporting period. The final performance report shall be submitted either with the Cooperator's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

79.7 – Exhibit 01--Continued



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- O. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. The Cooperator shall retain all records pertinent to this instrument for a period of no less than 3 years from the expiration or termination date. As used in this provision, “records” includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. The Cooperator shall provide access and the right to examine all records related to this instrument to the Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

The Cooperator shall provide access to any project site(s) to the Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- P. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- Q. PUBLIC NOTICES. It is the Forest Service's policy to inform the public as fully as possible of its programs and activities. The Cooperator is encouraged to give public notice of the receipt of this instrument and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:

“This research was supported in part by funds provided by the Northern Research Station, Forest Service.”

The Cooperator may call on the Forest Service's Office of Communication for advice regarding public notices. The Cooperator is requested to provide copies of notices or announcements to the Forest Service Program Manager and to the Forest Service's Office of Communications as far in advance of release as possible.

79.7 – Exhibit 01--Continued



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- R. FUNDING EQUIPMENT. Federal funding under this instrument is not available for reimbursement of the Cooperator's purchase of equipment. Equipment is defined as having a fair market value of over \$5,000 per unit and a useful life of over one year. Supplies are those items that are not equipment.
- S. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. The Cooperator shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.
- T. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. The Cooperator shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

"In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. (Not all prohibited bases apply to all programs.)"

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, Room 326-W, Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call (202) 720-5964 (voice and TDD). USDA is an equal opportunity provider and employer."

If the material is too small to permit the full statement to be included, the material must, at minimum, include the following statement, in print size no smaller than the text:

"This institution is an equal opportunity provider."

- U. REMEDIES FOR COMPLIANCE RELATED ISSUES. If the Cooperator materially fails to comply with any term of the instrument, whether stated in a Federal statute or regulation, an assurance, the agreement, or elsewhere, the Forest Service may take one or more of the following actions:

(1) Temporarily withhold cash payments pending correction of the deficiency by the Cooperator or more severe enforcement action by the Forest Service;

(2) Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;

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(3) Wholly or partly suspend or terminate the current instrument for the Cooperator's program;

(4) Withhold further awards for the program, or

(5) Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.

V. TERMINATION BY MUTUAL AGREEMENT. This instrument may be terminated, in whole or part, as follows:

1. When the Forest Service and Cooperator agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.

2. By 30 days written notification by the Cooperator to the Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

If, in the case of a partial termination, the Forest Services determines that the remaining portion of the instrument will not accomplish the purposes for which the instrument was made, the Forest Service may terminate the instrument in its entirety.

Upon termination of an instrument, the Cooperator shall not incur any new obligations for the terminated portion of the instrument after the effective date, and shall cancel as many outstanding obligations as possible. The Forest Service shall allow full credit to the Cooperator for the United States Federal share of the non-cancelable obligations properly incurred by the Cooperator up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

W. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.7 – Exhibit 01--Continued



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- X. DEBARMENT AND SUSPENSION. The Cooperator shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the Federal government according to the terms of 2 CFR Part 180. Additionally, should the Cooperator or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.
- Y. MODIFICATIONS. Modifications within the scope of this instrument must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- Z. COMMENCEMENT/EXPIRATION DATE. This instrument is executed as of the date of the last signature and is effective through June 30, 2011 at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- AA. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

JOHN H. MITCHELL, Research Director University of Maine	Date
JAY R. BERG, JR., Grants & Agreements Specialist U.S. Forest Service, Northern Research Station	Date

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.7 – Exhibit 01--Continued



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The authority and format of this instrument has been reviewed and approved for signature.

JAY R. BERG, JR

U.S. Forest Service Grants & Agreements Specialist

Date

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.8 – Cooperative Research and Development and Associated Agreements

There are three agreement templates with the Research and Development (RD) designation:

Cooperative Research and Development Agreement (CRADA). Authorizes both parties to enter into applied research, where the potential for development of intellectual property (IP) or an invention exists. Proprietary information may be brought to the research, and the confidentiality periods for both the provided information and the development of new IP are agreed to. The Forest Service is not allowed to fund any portion of the research; however, may provide non-cash contributions. The Cooperator may provide both cash and non-cash contributions. Key components of a CRADA are confidentiality, publication, patent rights and licensing. A nonexclusive or exclusive license is offered to the Cooperator for any IP/invention developed or co-developed by the Forest Service. If the Cooperator elects to accept a license, then formal negotiations are conducted to determine the licensing fees paid by the Cooperator. Also, the Cooperator is required to submit a formal business plan, which must be approved by the USDA. Along with negotiated licensing fees, the USDA, laboratory, and its employee(s) may receive royalty payments.

Material Transfer Agreement (MTA). Authorizes the formal transfer of material from one party to another. Discussions are often initiated by non-Forest Service entities, for the purposes of gaining access to Forest Service developed materials. The MTA limits who may analyze/test the material and requires the recipient to share with the provider, any data derived from the testing. The MTA also limits publication and licensing, offers no material merchantability or warranty, and restricts the transfer of material deemed confidential. The provider instructs the recipient as to the return or disposal of the material.

Nondisclosure Agreement (NDA). Allows for the disclosure of proprietary information between parties. The NDA identifies; in general terms, the proprietary information that may be discussed, to include the date when all disclosures will be completed, as well as the overall effective period. The NDA is often times a precursor to establishing a CRADA.

79.81 – FS-1500-13 Cooperative Research and Development Agreement Sample

79.81 – Exhibit 01

FS-1500-13 Cooperative Research and Development Agreement Sample



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FS Agreement No. 09-RD-11111122-145
Cooperator Agreement No. 14-SPO-09-01

COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENT

**Between The
ACMEI RESEARCH, LLC
And The
U.S. FOREST SERVICE
FOREST PRODUCTS LABORATORY**

Part A. COVER PAGE

1. Project Title: **Sulfite Pretreatment to Overcome Recalcitrance of Lignocellulose (SPORL) Process to Efficiently Affect the Biochemical Conversion of Woody Biomass to Bioethanol.**
2. Parties:
 - A. ACMEI Research, LLC hereinafter referred to as “Cooperator.”
 - B. Forest Service
Forest Products Laboratory, hereinafter referred to as Forest Service.
U.S. Tax Identification Number: 72-0564834
DUNS Number: 929332484
3. Agreement Format. This agreement is comprised of the following Parts:
 - A. Cover Page
 - B. Articles
 - C. Schedule 1 – Certifications
 - D. Schedule 2 – Scope of Work
 - E. Schedule 3 – Financial Plan

79.81 – Exhibit 01--Continued



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Part B. ARTICLES

Article 1. Definitions

- 1.1. Forest Service means the United States Forest Service, Forest Products Laboratory.
- 1.2. Cooperator means ACMEI Research, LLC.
- 1.3. Agreement means this Cooperative Research and Development Agreement.
- 1.4. FOIA means Freedom of Information Act (5 U.S.C. 552).
- 1.5. Confidential Information means trade secrets or commercial or financial information that is privileged or confidential under the meaning of 5 USC 552(b)(4).
- 1.6. Subject Invention means any invention or other intellectual property conceived or first reduced to practice under this Agreement which is patentable or otherwise protectable under Title 35 of the United States Code, under 7 USC 2321, et seq., or under the patent laws of a foreign country. Specifically not included in the definition of Subject Inventions are inventions made outside the Scope of Work or prior to the execution of this Agreement.
- 1.7. Record means any book, document, accounting procedure and practice, or other data, regardless of type and regardless of form.
- 1.8. Scope of Work means those activities set forth in Schedule 2, entitled "Scope of Work."
- 1.9. Period of the Agreement means that period set forth under the Period of Agreement on the cover form for this agreement.

Article 2. Publications

- 2.1 Subject to the requirements of confidentiality and preservation of rights in Subject Inventions, either party may publish the results of this Agreement, PROVIDED:
 - a. The manuscript is provided to the other party's Authorized Agent for review at least sixty (60) days prior to submission for publication.
 - b. The publication must acknowledge this Agreement and the contributions of each party's personnel.
 - c. The final decision as to the publication content rests with the party that writes the publication.

79.81 – Exhibit 01--Continued



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- 2.2 Publication and/or other disclosure of the results of this Agreement must be delayed as necessary to preserve both United States of America and foreign patent rights in a Subject Invention.
 - a. Such a delay will only be granted if requested in writing; and.
 - b. The requesting party demonstrates promptness and diligence in seeking patent protection on the Subject Invention.
- 2.3 The Forest Service reserves a royalty-free, nonexclusive, and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, any Cooperator's published work resulting from this cooperative project for Government purposes.
- 2.4 The Cooperator shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this instrument.

Article 3. Confidentiality

- 3.1 The Forest Service will process all requests for the release of information in accordance with the Freedom of Information Act (FOIA), 5 USC 552.
- 3.2 Confidential Information, which is owned by one party to this Agreement and disclosed to the other, must be labeled "CONFIDENTIAL" by the submitter and must not be disclosed by the recipient without permission of the owner, or for the period as defined per article 3.
- 3.3 Confidential information will only be shared with personnel who have a need to know.
- 3.4 To the extent either party orally submits its Confidential Information to the other party, the submitting party will prepare a document marked "CONFIDENTIAL" embodying or identifying in reasonable detail such orally submitted Confidential Information and provide the document to the other party within thirty (30) days of disclosure.
- 3.5 Neither party shall be bound by confidentiality if the Confidential Information received from the other party:
 - a. Already is available to the public or known to the recipient;
 - b. Becomes available to the public through no fault of the recipient; or
 - c. Is non-confidentially, received from another party legally entitled to it.

79.81 – Exhibit 01--Continued



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- 3.6 Confidential Information, provided by the Cooperator, and which would otherwise be controlled in accordance 5 USC § 552(b)(4), and which is used or integral in the development of an invention or other intellectual property conceived or first reduced to practice under this Agreement, and which is patentable or otherwise protectable, under Title 35 of the United States Code (7 USC 2321, et seq.), or under the patent laws of a foreign country, must only remain confidential for a period of **Zero years, Zero months**, following the development of said invention or other intellectual property.
- 3.7 All information developed under this Agreement falling within the scope of the Agreement must be considered by both Cooperator and the Forest Service as confidential for a period of **Zero years, Zero months**, following the development the information.
- 3.8 Public access to grant or agreement records must not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).

Article 4. Meetings, Reports and Records

- 4.1 Frequent and effective communication is essential to the successful accomplishment of the objectives of this Agreement. To this end, the Forest Service technical representative will contact the Cooperator technical representative to discuss dates/times/frequency for any agreed-to meetings. Meetings must be coordinated by the Forest Service.
- 4.2 Any such plan or recommendation that is outside the Scope of Work must be reduced to writing and referred to the Authorized Agent of each party for appropriate action. Any such plan or recommendation so referred must not be binding upon either party unless incorporated into this Agreement by written amendment.
- 4.3 Each party shall keep complete records relating to this research. All such records must be available for inspection by Cooperator, Forest Service, Comptroller General or any authorized representative at reasonable times. The records, or true copies of them, must be delivered upon request.
- 4.4 The results of this Agreement and research data that are collected, compiled, and evaluated under this Agreement must be shared and mutually interchanged by the Cooperator and the Forest Service.

79.81 – Exhibit 01--Continued



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- 4.5 Interim written reporting will not be submitted by either party. A final report summarizing all data shall be submitted by each party, separately or jointly, to both parties' Authorized Agents within 30 days of Agreement completion.
- 4.6 Any communications affecting the operations covered by this agreement given by the Forest Service or the cooperator is sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the agreement.

To cooperator, at the cooperator's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this article, or on the effective date of the notice, whichever is later.

Article 5. Ownership of Inventions

- 5.1 All rights, title, and interest in any Subject Invention made solely by employee(s) of the Forest Service shall be owned by the Forest Service.
- 5.2 All rights, title, and interest in any Subject Invention made solely by employee(s) of the Cooperator shall be owned by the Cooperator.
- 5.3 All rights, title, and interest in any Subject invention made jointly by at least one (1) employee of the Forest Service and at least one (1) employee of the Cooperator shall be jointly owned by the Forest Service and Cooperator.

Article 6. Subject Invention Licenses

- 6.1 Patent rights obtained on joint Subject Inventions made by two or more persons shall be owned in accordance with the obligations of the persons making such inventions to assign their interest therein, and both the Forest Service and Cooperator shall jointly own an undivided interest in the patent rights on all Subject Inventions which jointly involve an employee of the Forest Service and Cooperator. The undivided interest of the Forest Service in such patent rights must be subject to the option and right of first refusal in paragraph 6.3, below.

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- 6.2 Cooperator is granted an option to negotiate an exclusive license in each Subject Invention owned or co-owned by the Forest Service for one or more field(s) of use encompassed by the Scope of Work. This license must be consistent with the requirements of 35 USC 209(a), 209(b) (manufactured substantially in the U.S.), and 209(f) and other such terms and conditions as may be reasonable under the circumstances, as agreed upon through good faith negotiations between the Cooperator and the Forest Service.
- 6.3 This option to negotiate an exclusive license shall terminate whenever the Cooperator fails to:
- a. Submit a complete application for an exclusive license within 60 to 120 days of being notified the Forest Service of an Inventions availability for licensing; or
 - b. Submit a good faith written response to a written proposal of licensing terms within 45 to 60 days of such proposal.
- 6.4 Cooperator grants the Forest Service, on behalf of the U.S. Government, a royalty free, nonexclusive, worldwide, irrevocable, nontransferable license for any Cooperator solely owned Subject Invention. The purpose of this license must be to practice the Subject Invention or have it practiced, by or on behalf of the U.S. Government, for research or other U.S. Government purposes. 15 USC 3710a(b)(2).

Article 7. Subject Invention Information

- 7.1 The Authorized Agents or designees of each party shall promptly make written disclosure to each other of each Subject Invention.
- 7.2 This information must be treated in confidence by the receiving party, EXCEPT: it may be shared with those having a need to know.
- 7.3 Each party shall provide, when requested by the other, all information in its possession, or true copies thereof, pertaining to a Subject Invention which may be necessary or useful in the preparation, filing, and prosecution of patent applications covering the Subject Invention.

79.81 – Exhibit 01--Continued



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Article 8. Intellectual Property Protection Applications

- 8.1 Cooperator shall have the first option to prepare and prosecute patent applications, foreign and domestic, on Subject Inventions owned or co-owned by the U.S. Government, subject to the following conditions:
- a. All documents must be submitted to the Forest Service sufficiently in advance to filing to allow the Forest Service a reasonable opportunity to review and make recommendations thereon;
 - b. Copies of all correspondence from the U.S. Patent and Trademark Office and foreign equivalent offices must be provided promptly to the Forest Service;
- 8.2 The act of preparing and/or filing documents, per se, does not entitle the Cooperator to any rights in such Inventions or the reimbursement of costs incident to patent prosecution.
- 8.3 The Forest Service shall have the right at any time, at its sole discretion, concerning Subject Inventions solely owned by the U.S. Government, to: (1) assume responsibility for prosecuting any such application; and (2) permit any application to become abandoned or issued patent/certificate to expire, subject to the provisions of any license agreement relating to the subject matter.
- 8.4 The Forest Service agrees to provide Cooperator consultation and advice in the preparation, filing, and prosecution of patent applications on Subject Inventions.
- 8.5 The assignee of record for all patents owned by the Forest Service shall be "The United States of America as represented by the Secretary of Agriculture, Washington, D.C." Joint ownership by the Government must be set forth in patents.

Article 9. Use of Name or Endorsements

Cooperator shall not in any way state or imply that this Agreement or the results of this Agreement are an endorsement of its organizational units, employees, products, or services except to the extent permission is specifically granted by the Forest Service.

79.81 – Exhibit 01--Continued



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Article 10. Regulatory Compliance with Government Rules & Regulations

- 10.1 Cooperator is responsible for obtaining appropriate opinions, permits, or licenses from Federal or State agencies, which regulate research materials, or commercial products that may arise from the research work performed within the Scope of Work.
- 10.2 In carrying out its responsibilities under this Article, Cooperator shall:
 - a. Consult and coordinate regulatory approval actions with the Forest Service; and
 - b. Give the Forest Service's Authorized Agent or designee a copy of any applications and opinions, permits, or licenses issued.
- 10.3 Both parties acknowledge and agree to comply with all applicable laws and regulations of the Animal Plant Health and Inspection Service, The Center for Disease Control, and /or Export Control Administration pertaining to possession or transference of technical information, biological materials, pathogens, toxins, genetic elements, genetically engineered microorganisms, vaccines, and the like.
- 10.4 Both parties shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any of the other party's technical data or products received under this Agreement or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Laws and Regulation unless properly authorized by the U.S. Government.
- 10.5 Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly.

Article 11. Liability

It is understood and agreed that neither party to this Agreement is responsible for any damages or injuries arising out of the conduct of activities governed by this Agreement, except to the extent that such damages and/or injuries were caused by the negligent or wrongful acts or omissions of its employees, agents or officers. Forest Service liability is limited by the Federal Tort Claims Act, 28 USC 2671, et. seq.

79.81 – Exhibit 01--Continued



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Article 12. Termination

- 12.1 Either party may unilaterally terminate this entire Agreement at any time by giving the other party written notice not less than sixty (60) calendar days prior to the desired termination date.
- 12.2 Articles 2. "Publications", 3. "Confidentiality", 5. "Ownership", 6. "Subject Invention Licenses", 9. "Use of Name or Endorsements", and 11. "Liability" must survive the expiration or termination of this Agreement.
- 12.3 If either party unilaterally terminates this Agreement pursuant to Article 12.1, each party shall return to the other or destroy, as shall be then agreed, any and all data and materials originated or provided by one party to the other that is still in the receiving party's possession within thirty (30) days of termination.

Article 13. Legal Authority

- 13.1 The cooperator has the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- 13.2 The Forest Service is entering into the Agreement under the authority of the Federal Technology Transfer Act of 1986 (15 U.S.C. § 3710a).

Article 14. Disputes

- 14.1 Any dispute arising under this Agreement, which cannot be readily resolved, must be submitted jointly to the Authorized Agents, identified in Article 15 of these General Provisions.
- 14.2 Each party agrees to seek in good faith to resolve the issue through negotiation or other forms of nonbinding dispute resolution processes mutually acceptable to the parties.
- 14.3 Pending the resolution of any dispute or claim pursuant to Article 14, the parties agree that performance of all obligations shall be pursued diligently.

79.81 – Exhibit 01--Continued



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Article 15. Notices and Authorized Agents

All notices pertaining to or required by this Cooperative Research and Development Agreement that interpret or may have a bearing on the legal effect of this Agreement's terms and conditions must be in writing and signed by the authorized business representative shown below.

Cooperator Authorized Business

Representative

Name: Mark Time
Title: Accountant
Address: ACMEI Research, LLC
1520 University Ave
Madison, WI 53719
Phone: 608-235-5901
FAX: 608-235-5902
E-Mail: mttime@aol.com

Cooperator Authorized Technical

Representative

Name: Joe Smith
Title: Biomass Development Coord.
Address: ACMEI Research, LLC
1520 University Ave
Madison, WI 53719
Phone: 608-235-5901
FAX: 608-235-5902
E-Mail: jsmith@hotmail.com

Forest Service Authorized Business

Representative

Name: William Clark
Title: Grants & Agreement Specialist
Address: Forest Products Laboratory
One Gifford Pinchot Drive
Madison, WI 53726
Phone: 603-231-9282
FAX: 603-231-9585
E-Mail: wlclark@fs.fed.us

Forest Service Authorized Technical

Representative

Name: Junyong Zhu
Title: Lead Researcher
Address: Forest Products Laboratory
One Gifford Pinchot Drive
Madison, WI 53726
Phone: 608-231-9520
FAX: 608-231-9538
E-Mail: jzhu@fs.fed.us

Article 16. Limitation on Forest Service Scientific Representative's Authority

- 16.1 The Forest Service's Technical Representative is authorized to perform the research and development falling within the Scope of Work. Neither the Technical Representative nor their staff is authorized to change or interpret with authority the terms and conditions of this Agreement.

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- 16.2 All persons performing under this agreement shall be aware of and perform according to the Forest Service Code of Scientific Ethics found at:
[http://www.fs.fed.us/research/publications/fs_code_of%20 scientific ethics.pdf](http://www.fs.fed.us/research/publications/fs_code_of%20scientific_ethics.pdf)
- 16.3 This agreement is subject to the “Guidelines for Ensuring and Maximizing the Quality, Objectivity, Utility, and Integrity of Information Disseminated by Federal Agencies; Republication” and the “USDA Guidelines for Quality of Information” which can be found at <http://www.fs.fed.us/qoi/>.

Article 17. Assignments

- 17.1 Neither this Agreement nor any rights or obligations of the parties hereto must be assigned or otherwise transferred by either party without the prior written consent of the other party, which consent must not be unreasonably withheld.
- 17.2 The Forest Service is an agency of the U.S. Government and any rights or obligations created under this Agreement are freely transferable within the U.S. Government and must not be deemed an “assignment” as contemplated by this Article 17.

Article 18. Relationship of Parties

- 18.1 The Forest Service and Cooperator act in their independent capacities in the performance of their respective functions under this Agreement and neither party is to be considered the officer, agent, or employee of the other.
- 18.2 Each party shall allow, consistent with policies and procedures of the Forest Service and the Cooperator, access to their facilities, as needed.
- 18.3 Each party shall separately assign personnel, equipment, supplies, transportation, and facilities, as needed and available to meet respective responsibilities hereunder, such resources to remain the property of the assignor.

Article 19. Force Majeure

- 19.1 Neither party shall be liable for any unforeseeable event beyond its reasonable control not caused by the fault or negligence of such party:
- a. Which causes the party to be unable to perform its obligations under this Agreement; and

79.81 – Exhibit 01--Continued



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- b. Which it has been unable to overcome by the exercise of due diligence.
 - c. This includes, but is not limited to, flood, drought, earthquake, storm, fire, pestilence, lightning and other natural catastrophes, epidemic, war, riot, civil disturbance or disobedience, strikes, labor dispute, failure, or sabotage of either party's facilities or any order or injunction made by a court or public agency.
- 19.2 In the event of the occurrence of such force majeure event, the party unable to perform shall promptly notify the other party. It must also:
- a. Use its best efforts to resume performance as quickly as possible;
 - b. Suspend performance only for such period of time as is necessary as a result of the force majeure event.

Article 20. Severability

The illegality or invalidity of any provision of this Agreement must not impair, affect, or invalidate the other provisions of this Agreement.

Article 21. Ambiguities

The Forest Service and Cooperator agree that each party has reviewed this Agreement and that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply to the interpretation of this Agreement.

Article 22. Subcontracting Approval

- 22.1 A party hereto desiring to obtain and use the services of a third party via contract or otherwise shall give prior notice to the other party, including details of the contract or other arrangement.
- 22.2 This requirement is to assure that confidentiality is not breached and rights in Subject Inventions are not compromised.

79.81 – Exhibit 01--Continued



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Article 23. Governing Law

The construction, validity, performance, and effect of this entire Agreement must be governed by the laws applicable to the Government of the United States of America as practiced in the Federal Courts located in the District of Columbia.

Article 24. Entire Agreement

- 24.1 This Agreement constitutes the entire agreement between Cooperator and the Forest Service and supersedes all prior agreements and understandings between them with respect to its subject matter.
- 24.2 Any representatives, promise, or condition in connection with such subject matter, which is not incorporated in this Agreement, must not be binding upon either party.
- 24.3 No modifications, renewal, extension, waiver, or termination of this Agreement or any of its provision must be binding upon the party against whom enforcement of such modification, renewal, extension, waiver, or termination is sought, unless made in writing and signed on behalf of such party by that party's Authorized Agent.
- 24.4 As used herein, the word 'termination' includes any and all means of bringing to an end prior to its expiration by its own terms of this agreement, or any provision thereof, whether by release, discharge, abandonment, or otherwise.

Article 25. Modifications

Modifications within the scope of the instrument must be made by mutual consent of the parties, by the issuance of a written modification, signed and dated by the Authorized Agents of both parties, prior to any changes being performed.

Article 26. Commencement/Expiration

This instrument is executed as of the date of the last signature and is effective through **January 31, 2012** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.

79.81 – Exhibit 01--Continued



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Article 27. Authorized Representatives

By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

JOHN Q. ACMEI, CEO ACMEI Research, LLC	Date
WILLIAM L. CLARK, Grants & Agreements Spec. U.S. Forest Service, Forest Products Laboratory	Date

The authority and format of this instrument has been reviewed and approved for signature.

WILLIAM L. CLARK
U.S. Forest Service Grants & Agreements Specialist

Date

79.81 – Exhibit 01--Continued



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Part C. SCHEDULE 1 - CERTIFICATIONS

Cooperator certifies that it:

1. ☒ is ☐ is not, a small business.
2. ☐ is ☒ is not, a minority business.
3. Operates as:

- | | |
|-------------------------------------|-------------------------------|
| <input type="checkbox"/> | an individual |
| <input type="checkbox"/> | a partnership |
| <input checked="" type="checkbox"/> | a corporation |
| <input type="checkbox"/> | limited liability corporation |
| <input type="checkbox"/> | public institution |
| <input type="checkbox"/> | private institution |
| <input type="checkbox"/> | educational institution |

and is incorporated in the State of Idaho.

4. Has not paid or agreed to pay any company or person (other than a bona fide employee working solely for Cooperator) any fee, commission, percentage, or brokerage fee, contingent upon the award of this Agreement, and if so, agrees to furnish information relating thereto, as requested, by the Authorized Departmental Officer.
5. Has not employed or retained any company or person (other than a full-time bona fide employee working solely for Cooperator) to solicit or secure this Agreement.
6. Its Principal Officers are not listed on the U.S. Government's list of debarred and suspended organizations and individuals; shall notify the Authorized Departmental Officer if so listed; and shall not subcontract or otherwise award to any organization or individual so listed.
7. Agrees to comply with the provisions of the Civil Rights Act of 1964, as amended, and Executive Order 11246, addressing equal opportunity and affirmative action.
8. Agrees to comply with the provisions of Title IX of the Education Amendment of 1972, 20 USC 1681, et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; Age Discrimination Act of 1975, 42 USC 6101-6107; Clean Air Act, 42 USC 7401, et seq.; and Drug-Free Workplace Act of 1988, 41 USC 701, et. seq.

79.81 – Exhibit 01--Continued



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9. Is in a position to undertake this Agreement, to include performing all responsibilities and making any and all payments, as described in Schedule 2.

Part D. SCHEDULE 2 – SCOPE OF WORK

Project Information

A. Background/Scope of Work:

Feasibility study using the sulfite pretreatment to overcome recalcitrance of lignocellulose (SPORL) process for the robust pretreatment of beetle-infested lodgepole pine trees with the intended result being excellent enzymatic cellulose conversion, good hemicellulose sugar recovery and ethanol yield through conversion.

B. Program/Research Objectives:

To foster collaboration in cellulosic ethanol production from beetle-infested lodgepole pines using the FPL process.

C. Program Stages:

Phase I – feasibility study of SPORL

Phase II – pilot scale study

D. Forest Service Shall:

1. Upon agreement execution, and prior to commencement of work, issue a Bill for Collection to the Cooperator for \$11,000. On or about February 1, 2010, the Forest Service shall issue the second and final Bill for Collection for \$11,000.
2. Coordinate with the Cooperator prior to project commencement.
3. Prepare a study plan and furnish it to the Cooperator.
4. Submit a final report to the Cooperator within 30 days following completion of the research.

79.81 – Exhibit 01--Continued



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E. Cooperator Shall:

1. Pay any shipping charges to and from the FPL associated with this research, including waste disposal charges generated by this study in excess of those considered normal by the Forest Service.
2. Make one advance and one reimbursable payment to the Forest Service in the total amount of \$22,000 with a payment schedule as follows:
 - (a) Two payments upon receipt of a bill of collection(s).
 - (b) Overhead will be assessed at the rate of 23.38%.

- (c) The address to which each Bills for Collection shall be sent:

ACMEI Research, LLC
1520 University Ave
Madison, WI 53719

- (d) Nothing herein shall be construed as obligating the Forest Service to expend or as involving the United States in any contract or other obligation.
 - (e) Cooperator may pay the travel and per diem of Forest Service scientific representatives traveling pursuant to this Agreement if such payment receives the prior approval of the Forest Service Station Director.
 - (f) Funds collected in advance by the Forest Service, which are not spent or obligated for the project(s) approved under this agreement, may be refunded to the Cooperator, authorized for use for a new agreement by the Cooperator, or waived by the Cooperator. A DUNS number and registration in the Central Contractor Registry (CCR) by the Cooperator may be necessary to process a refund. Due to processing costs, any balance less than \$25 shall not be refunded to the Cooperator.

Part E. SCHEDULE 3 - FINANCIAL PLAN

(Insert Financial Plan here)

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.81 – Exhibit 01--Continued



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Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.82 – FS-1500-13a Material Transfer Agreement Sample

79.82 – Exhibit 01

FS-1500-13a Material Transfer Agreement Sample



USDA Forest Service

OMB 0596-0217
FS-1500-13a

**MATERIAL TRANSFER AGREEMENT
09-RD-1111126-020**

PARTIES:

Forest Service: US Forest Service
Forest Products Laboratory (FPL)
One Gifford Pinchot Drive
Madison, WI 53726-2398

FPL Business Representative: William Clark
Tel: 608-231-9282
FAX: 608-231-9585
E-mail: wlclark@fs.fed.us

FPL Technical Representative: Thomas Jeffries, Ph.D.
Tel: 608-231-9453
FAX: 608-231-9262
E-mail: twjeffries@fs.fed.us

Recipient: ACMEI Research, LLC
1520 University Avenue
Madison, WI 53719

Recipient's Business Representative: John Q. Acmei
Tel: 608-235-5901
FAX: 608-235-5902
E-mail: jacmei@acmei.com

Recipient's Technical Representative: David Smith, PhD
Tel: 608-235-5911
FAX: 608-235-5902
E-mail: dsmith@acmei.com

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79.82 – Exhibit 01--Continued



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PURPOSE:

To provide Recipient with the following culture strain:

FPL-LU20

Species: *Pichia Stipitis*

Serial# 09/556,601

Patent# 6,391,599

NRRL# Y-21970

and know how, hereinafter collectively referred to as the Material.

Material shall be delivered to the following address:

Dr. Smith
ACMEI Research, LLC
1520 University Avenue
Madison, WI 53719

Phone#: 608-235-5902

Material is released to Recipient under the following conditions:

1. Testing of this Material shall be limited to: improvement of xylose fermentation by recombinant *Saccharomyces cerevisiae*, through the application of two (2) different scientific approaches.
2. Recipient shall seek approval from the Forest Service prior to allowing any other party or parties to view, study, investigate or analyze the Material.
3. Recipient shall share any data or information derived from review or analysis of this Material with the Forest Service; provide the Forest Service with a copy of any manuscript that describes work with the Material prior to submission for publication, and acknowledge the Forest Service's contribution to the work reported.

79.82 – Exhibit 01--Continued



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4. Recipient shall seek and gain Forest Service approval prior to publicizing any information derived from review or analysis of this Material.
5. Recipient shall not transfer the Material, in whole or in part, to a third party without the express written consent of Forest Service. Any third party requesting a sample shall be referred to Forest Service.
6. The Material shall remain the property of Forest Service and shall not be used for commercial or profit making purposes without an appropriate license or other permission from the Forest Service.
7. Recipient shall not in any way state or imply that this Agreement or the results of this Agreement is an endorsement by the Forest Service, of its organizational units, employees, products, or services except to the extent permission is specifically granted by an authorized representative of the Forest Service.
8. The Parties acknowledge and agree to comply with all applicable laws and regulations of the Animal Plant Health and Inspection Service, the Center for Disease Control, and/or Export Control Administration pertaining to possession or transference of technical information, biological materials, pathogens, toxins, genetic elements, genetically engineered microorganisms, vaccines, and the like.
9. Recipient shall assume sole responsibility for any claims or liabilities that may arise as a result of the Recipient's use of the Material.
10. THE FOREST SERVICE GIVES NO WARRANTIES OR GUARANTEES, EXPRESSED OR IMPLIED, FOR THE MATERIAL, INCLUDING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.
11. Material shall be returned, destroyed, or otherwise disposed of, as instructed by the Forest Service, no later than the expiration of this Agreement.
12. Recipient shall disclose to the Forest Service any invention that arises from work or use of the Material. The inventorship of any invention made from work or use of the Material shall be determined in accordance with U.S. law.

79.82 – Exhibit 01--Continued



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13. Confidentiality:

- a. Recipient shall not disclose Material marked “Confidential” or “Proprietary” to any third party nor use such Confidential Information for any purpose other than that given above without written permission from the Forest Service.
- b. Recipient shall use the same degree of care to protect Confidential Information received under this Agreement as it uses to protect its own information of a similar nature, but in any event not less than reasonable care under the circumstances.
- c. The Confidential Information shall be excluded from confidentiality if Recipient can demonstrate that (a) it had possession of the information prior to disclosure, or (b) the information generally is available to the public at the time of disclosure, or becomes generally available, after disclosure, through no fault of Recipient; or (c) Recipient receives the information from a third party having the right to the information and who does not impose confidentiality.
- d. It shall not be a breach of this Agreement if Recipient is required to disclose Confidential Information by a valid order of a court or other government body, or as otherwise required by law, or as necessary to establish the rights of either party under this Agreement; PROVIDED THAT Recipient shall provide prompt prior notice thereof to the Forest Service, to enable the Forest Service to seek a protective order or otherwise prevent such disclosure, and PROVIDED FURTHER THAT the Confidential Information otherwise shall continue to be confidential.

14. If the Parties hereto decide, at some future date, to engage in a cooperative research project or program using the Material, a formal Cooperative Research and Development Agreement, or other research Agreement, must be negotiated and entered into between the Parties.

15. This Material Transfer Agreement shall be construed in accordance with United States of America Federal Law as interpreted by the Federal Courts in the District of Columbia.

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79.82 – Exhibit 01--Continued



USDA Forest Service

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16. This Material Transfer Agreement shall become effective upon date of final signature and shall continue in effect for a period of 1 YEAR and 6 MONTHS; provided, however, that the obligations assumed by Recipient, regarding the maintenance of confidentiality, under this Agreement shall remain in effect for 3 YEARS and 0 months) from the expiration of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the last date written below:

DAVID SMITH, Lead Researcher ACMEI Research LLC, Official Receiving Material	Date
JOHN Q. ACMEI, President ACMEI Research LLC, Recipient,	Date
WILLIAM L. CLARK, Grants & Agreements Spec. U.S. Forest Service, Forest Products Laboratory	Date

The authority and format of this instrument has been reviewed and approved for signature.

WILLIAM L. CLARK
U.S. Forest Service Grants & Agreements Specialist

Date

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Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.82 – Exhibit 01--Continued



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Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-New. The time required to complete this information collection is estimated to average XX minutes/hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

79.83 – FS-1500-13b Nondisclosure Agreement Sample

79.83 – Exhibit 01

FS-1500-13b Nondisclosure Agreement Sample



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NONDISCLOSURE AGREEMENT

(09-RD-1111126-079)

ACMEI Research, LLC, hereinafter referred to as “ACMEI”, and the US Forest Service, Forest Products Laboratory, hereinafter referred to as “Forest Service”, have concluded that the following understanding should establish the conditions under which the Proprietary Information of ACMEI, the Forest Service, or both can be disclosed or exchanged.

For and in consideration of the mutual understandings by ACMEI and Forest Service, it is hereby agreed:

1. The Proprietary Information may include, for example, data, know-how, formulas, processes, designs, sketches, photographs, plans, drawings, specifications, samples, reports, customer lists, price lists, studies, findings, inventions or ideas, but is not limited to those items.
2. The Discloser, which can be either ACMEI or the Forest Service, intends to maintain the confidential status of its Proprietary Information.
3. The Discloser shall designate or mark the proprietary nature of its Proprietary Information so the Recipient, which can be either ACMEI or the Forest Service, is aware that its receipt is governed by the terms of this Agreement.
4. The ACMEI or Forest Service proprietary information, and uses therein, includes: discussions regarding the potential improvement of xylose fermentation by recombinant Saccharomyces cerevisiae, through the use of a ACMEI proprietary approach.
5. The parties' representatives for disclosing and receiving Proprietary Information are designated below. Said representatives shall make all arrangements and be informed of all communications relating to this Agreement. Any changes in representative by one party shall be made upon written notice to the other party.

79.83 – Exhibit 01--Continued



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6. While the amount of Proprietary Information to be disclosed is completely within the discretion of the Discloser, all disclosures hereunder shall be completed by November 30, 2009.
7. The Recipient shall exercise reasonable care to prevent disclosure of Discloser's Proprietary Information to any third party, except as may be authorized in writing by Discloser, and internal dissemination of Discloser's Proprietary Information by the Recipient shall be limited to those employees whose duties justify their need to know such information and then only on the basis of a clear understanding by these employees of their obligation to maintain the confidential status of such information and to restrict the use of such information solely to the use granted to the Recipient under this Agreement.
8. Recipient shall not use the Proprietary Information disclosed by Discloser except for any purpose as stated in paragraph 4, above.
9. Nothing hereinabove contained shall deprive Recipient of the right to use or disclose any information:
 - a. which is, at the time of disclosure, generally known to the trade or the public;
 - b. which becomes at a later date generally known to the trade or the public through no fault of Recipient and then only after said later date;
 - c. which is possessed by Recipient, as evidenced by Recipient's written or other tangible evidence, before receipt thereof from Discloser;
 - d. which is disclosed to Recipient in good faith by a third party who has an independent right to such information; or
 - e. after a period ending November 30, 2010.
10. Nothing hereinabove contained shall be construed as granting or implying any right under any Letters Patent or to use any invention covered thereby.

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11. This Agreement shall be governed and construed by accordance with the laws of the United States of America as practiced in the Federal Courts located in the District of Columbia pertaining to trade secrets to the extent such State laws are not in conflict with Federal law.
12. This Agreement is entered into under the authority of the Federal Technology Transfer Act of 1986 (15 U.S.C. § 3710a).
13. This Agreement shall have as its effective date the last signed date indicated below and is prepared in duplicate to constitute upon bilateral execution a totally binding CONFIDENTIAL RELATIONSHIP AGREEMENT.
14. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this instrument. In witness whereof, the parties hereto have executed this instrument as of the last date written below.

JOHN Q. ACMEI, President ACMEI Research LLC	Date
DAVID SMITH, Lead Researcher ACMEN Research LLC	Date
WILLIAM L. CLARK, Grants & Agreements Spec. U.S. Forest Service, Forest Products Laboratory	Date

The authority and format of this instrument has been reviewed and approved for signature.

WILLIAM L. CLARK
U.S. Forest Service Grants & Agreements Specialist

Date

Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.83 – Exhibit 01--Continued



USDA Forest Service

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Burden Statement

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79.9 – Stewardship Supplemental Project Agreement Sample

The following is a sample Supplemental Project Agreement (SPA) tiered to a Master Stewardship Agreement. To enter into an SPA with a cooperator to perform stewardship work, there must be an executed Master Stewardship Agreement in place with the cooperator.

79.9 – Exhibit 01 Stewardship Supplemental Project Agreement Sample

**SUPPLEMENTAL PROJECT AGREEMENT
#09-SA-11010300-098
Between the
ROCKY MOUNTAIN ELK FOUNDATION, INC.
and the
US FOREST SERVICE, BITTERROOT NATIONAL FOREST
Tiered to
MASTER
STEWARDSHIP CHALLENGE COST SHARE AGREEMENT
08-CS-11015600-037
SWIFT CREEK STEWARDSHIP PROJECT**

This Stewardship Supplemental Project Agreement (SPA) is hereby entered into by and between the Rocky Mountain Elk Foundation, Inc., hereinafter referred to as the Partner, Cooperator, or RMEF, and the US Forest Service, Bitterroot National Forest hereinafter referred to as the Forest Service, as specified under the provisions of Master Stewardship Challenge Cost Share Agreement #08-CS-11015600-037.

Background: The Swift Creek Stewardship Project area is located along the Swift-Echo road approximately 13 miles north of the Sula Ranger Station via the East Fork and Meadow Creek roads. The Bitterroot NF Forest Plan of 1987 identifies this 138 acre area as Management Areas 2 and 3a. The goals for these categories are to: protect and enhance elk wintering habitat and manage for timber while maintaining visual quality. Additional goals for this project are:

- Provide local employment opportunities.
- Reduce the risk of loss from bark beetles and fire due to stand density
- Improve soil productivity and forest resiliency on terraced plantations.
- Evaluate technical/economic feasibility and effects on soil of different types of mechanized harvesting equipment
- Test various small wood harvesting and utilization treatments for potential use on an additional 18,000 acres of terraced plantations on the Bitterroot National Forest.

79.9 – Exhibit 01--Continued

A resident elk herd uses the area in and surrounding the project for calving, summer and early winter range. In addition, a migratory herd of 1,200 elk uses the same area. White-tailed deer, mule deer moose and, occasionally, bighorn sheep use the project area. Work on this project site will increase big game forage quality and quantity by encouraging understory growth and allowing native species to compete with invasives.

Treatments to improve habitat include: 138 acres of terraced pine plantation thinning (both ground-based and aerial yarding) and delivering small trees (approximately 5-16" DBH) to an approved manufacturing/scaling facility; application of borate compound to stumps >12 inches in DBH; road maintenance for wood product hauling operations; fabricating a single-winged subsoiler to decompact soil; masticating small trees (approximately 2-7" DBH) and applying fertilizer on slopes <30%; and slashing small trees (approximately 2-7" DBH) on slopes >30%.

I. PURPOSE

The purpose of this SPA is to document the cooperative effort between the parties to thin 163 acres of terraced/mechanically scarified ponderosa pine plantations using a variety of experimental mechanized harvesting systems and soil amelioration techniques in terraced plantations in accordance with the following provisions and the hereby incorporated Appendices.

Appendix A	Definitions
Appendix B	Technical Proposal
Appendix C	Map of Stewardship Project Area
Appendix D	Financial Plan
Appendix E	Schedule of Items and Road Maintenance Specifications
Appendix F	Timber Removal Specifications
Appendix G	Guidelines for Operations

II. THE RMEF SHALL:

TECHNICAL PROPOSAL. In coordination with the Forest Service, prepare a Technical Proposal, which will be attached as Appendix B when finalized. This Technical Proposal shall address agreed upon land management activities within the Stewardship Project Area displayed in Appendix C, for the proposed operating period. The Technical Proposal shall abide by all laws and regulations pertaining to the management and protection of National Forest System (NFS) lands and adhere to the National Environmental Policy Act (NEPA) document and all mitigation identified therein. The Technical Proposal will present sufficient information to reflect the requirements and methods for achieving the project objectives. Technical Proposals will contain the following information as needed:

79.9 – Exhibit 01--Continued

1. A plan of operations for both timber harvest and stewardship project work. Include a timeline and the description of work.
2. Quality control plan for how RMEF and the Forest Service will work together to ensure the project is implemented to meet agreed upon objectives and specifications.
3. A progress schedule showing starting and completion dates of various phases of the work.
4. List of contractors and work they will complete.
5. Traffic control plan.
6. A plan for hazard reduction.
7. A plan for erosion control.
8. Designation of RMEF and Forest Service personnel describing responsibilities and authorities.
9. Road maintenance.

The Technical Proposal will become part of this SPA without necessity of a formal modification.

- A. **BILLING.** Bill the Forest Service for costs incurred on the project. *See related Provision III-E Payment/Reimbursement.*

III. THE FOREST SERVICE SHALL:

- A. **SERVICE WORK.** In coordination with the Partner, complete a Schedule of Items and Specifications, Appendix E.
- B. **TIMBER REMOVAL.** Coordinate with the Partner to provide a completed Appendix F, Timber Removal Specifications and Appendix G, Guidelines for Operations, when forest products are exchanged for services. This Appendix may include:
1. Location of Stewardship Project Area.
 2. Volume estimates and Utilization Standards.
 3. Timber Designations, i.e. timber marking, silvicultural prescriptions or unit boundaries.
 4. Timber Payment rates.
 5. Stump height.
 6. Specified and temporary roads.
 7. Measurement instructions (scaled or pre-measurement).
 8. Advance payment requirements.
 9. Special requirements from project NEPA decision.

79.9 – Exhibit 01--Continued

- C. TECHNICAL PROPOSAL REVIEW. Review the Technical Proposal and work with the Partner to make any necessary changes.
- D. TECHNICAL PROPOSAL EVALUATION. Evaluate the Technical Proposal on technical and cost evaluation criteria such as, but not limited to:
1. Price 15%
 2. Technical Approach 35%
 - a. Plan of Operations
 - b. Quality Control
 - c. On-the-Ground Supervisor(s)
 - d. Equipment
 - e. Production Capability
 - f. Capability and Past Performance
 - g. Key Personnel
 - h. RMEF Sub-contractors
 - i. Past Contracts
 3. Treatment Method and Utilization of Non-sawtimber Material 25%
 4. Benefits to the Local Economy 25%
 - a. Employment of local workforce.
 - b. Utilization of local businesses.
- E. PAYMENT/REIMBURSEMENT It is anticipated that funds will be exchanged in the performance of this SPA when the value of the timber will not cover the value of the services performed.

The Forest Service will make payment upon receipt of the Partner's monthly billings. Each invoice from the Partner shall display the total project costs to date of the invoice, separated by Forest Service and the Partner share. In-kind contributions shall be displayed as a separate line item and will not be included in the total project costs. The final invoice from the Partner will be submitted no later than 90 days from the expiration date.

The invoice shall include, at a minimum:

1. Partner name, address, and telephone number.
2. Forest Service SPA number.
3. Invoice date.
4. Dates of performance period.
5. Total invoice amount.
6. Detail by Schedule of Items.

79.9 – Exhibit 01--Continued

The invoice shall be sent to:	With a copy to:
US Forest Service	Lee McAlpine
Albuquerque Service Center	7338 Highway 93 South
Payments – Grants & Agreements	Sula, MT 59871
101B Sun Ave NE	
Albuquerque, NM 87109	
E-mail: asc_ga@fs.fed.us	
FAX: (877) 687-4894	

IV. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PROJECT CONTACTS. The individuals listed below are authorized to act in their respective areas for matters related to this SPA. In their absence, a designated official acting on their behalf will be the authorized representative.

Principal RMEF Contacts:

Allen Christophersen Rocky Mountain Elk Foundation 5705 Grant Creek Road PO Box 8249 Missoula MT 59807-8249 406-396-1578 achristophersen@rmef.org	Bob Schrenk Rocky Mountain Elk Foundation 5705 Grant Creek Road PO Box 8249 Missoula MT 59807-8249 406-829-9149 bschrenk@msn.com
<i>Title/Role/Responsibility: Overall responsibility for the project and agreement compliance and operation.</i>	<i>Title/Role/Responsibility: Responsible for on the ground operational compliance of RMEF and its contractors. Monitors operations and makes adjustments in operations to meet agreement conditions.</i>

79.9 – Exhibit 01--Continued

Principal Forest Service Contacts:

<u>Forest Service Project Lead & Silvicultural Treatments</u>	<u>Forest Service Soils Treatments</u>
Lee McAlpine Sula Ranger District 7338 Hwy 93 South Sula MT 59871 406-821-2324 lmcalpine@fs.fed.us	Cole Mayn Supervisor's Office 1801 N Main Street Hamilton MT 59840 406-363-7155 cmayn@fs.fed.us
<i>Title/Role/Responsibility: Overall responsibility for the project and payments. Also agreement compliance and operations monitoring for silvicultural treatments.</i>	<i>Title/Role/Responsibility: Agreement compliance and operations monitoring for soils treatments.</i>
<u>Forest Service Product Removal Treatments</u>	<u>Forest Service Grants & Agreements Specialist</u>
TBA Timber Sale Administrator Darby Ranger District 721 N. Main Darby MT 59829 406-821-3913 <i>Title/Role/Responsibility: Agreement compliance and operations monitoring for logging, hauling, and product accountability.</i>	Michele Wasienko-Holland Western Montana Acquisition Zone Building 24, Fort Missoula Missoula, MT 59804 406-329-1008 mwasienkoholland@fs.fed.us

- B. **ANNUAL SPA MEETING.** Annually, prior to commencement of work, both parties will meet to discuss the terms and conditons of this SPA and agree to any modifications necessary for the years work.
- C. **ENVIRONMENTAL MANAGEMENT SYSTEM (EMS)** The parties will comply with the Forest Service's EMS which is a systematic approach to improving environmental performance by identifying activities and environmental impacts that occur on NFS lands. The Forest Service will provide the Partner with details for compliance.

79.9 – Exhibit 01--Continued

- D. NEPA COMPLIANCE. The Forest Service will assure that this SPA incorporates necessary design criteria and standards for operation to comply with the NEPA document. The Partner will work with the Forest Service to comply with these terms on the ground.
- E. ACCEPTANCE OF COMPLETED WORK. No less than monthly, the Partner will notify the Forest Service of any completed work that is ready for inspection. The Forest Service may accept all, or a reasonable portion of any specific activity.
- F. CREDIT FOR SERVICE WORK. Stewardship credits will be established for the number of service units (on the Schedule of Items) of each activity that has been completed and accepted by the Forest Service. Stewardship credits will not be earned for work that is in progress that has not been accepted by the Forest Service. Partner costs, excluding project development costs, attributable to service work will be incorporated into the Schedule of Items unit rate.
- G. EARNED STEWARDSHIP CREDITS. Earned stewardship credits are exchanged for forest products received by the Partner at the value designated in the SPA Financial Plan, Appendix D. Earned stewardship credits may also be funded with federal funds which will be obligated and reimbursed through IWEB.
- H. ELECTRONIC TRACKING SYSTEM. An Integrated Resource Statement of Account (IRSA) will be used as a tracking system for payments, stewardship credits, and cash deposits. The Forest Service project contacts identified in Provision IV-A is responsible for communicating on-the-ground accomplishments to Forest Service resource staff for input into the IRSA
- I. MONTHLY REPORTING. When the project is active, the Forest Service will enter the value of the completed and accepted work into the Timber Sale Accounting system (TSA) monthly, and provide the Partner with a copy of the Statement of Account.
- J. OVERPAYMENT. Any funds paid to the Partner in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the federal government. The following shall also be considered as a debt or debts owed by the Partner to the Forest Service:
- Any interest or other investment income earned on advances of agreement funds; or
 - Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned;

79.9 – Exhibit 01--Continued

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to the Partner.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the Forest Service may charge interest on an overdue debt.

- K. REFUNDS. Funds collected in advance by the Forest Service, which are not spent or obligated for the project(s) approved under an SPA, may be refunded to the Partner, authorized for use for a new agreement by the Partner, or waived by the Partner. A DUNS number and registration in the Central RMEF Registry (CCR) by the Partner may be necessary to process a refund. Due to processing costs, any balance less than \$25 shall not be refunded to the Partner.
- L. CHANGES TO ORIGINALLY-NEGOTIATED PRODUCT RATE: The Partner will document how much was paid for the product. If there is a change from the originally-negotiated rate, the SPA will be modified to increase or decrease the amount of services provided by the Partner, accordingly.
- M. MODIFICATION. Modifications within the scope of this SPA shall be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing.
- N. COMMENCEMENT/EXPIRATION DATE. This SPA is executed as of the date of the last signature and is effective through **December 21, 2010** at which time it will expire, unless extended by an executed modification, signed and dated by all properly authorized, signatory officials.
- O. AUTHORIZATIONS. The disposal of forest products under this SPA has been reviewed and approved by a delegated timber Forest Service. ***(This signature is required when forest products are subject to disposal. Otherwise, delete.)***

Timber Contracting Officer

Date

79.9 – Exhibit 01--Continued

The authority and format of this SPA has been reviewed and approved for signature.

Michele Wasienko-Holland
Grants & Agreements Specialist

Date

In witness whereof, the parties have executed this SPA as of the last date written below.

RODNEY J TRIEPKE, Chief of Operations
Rocky Mountain Elk Foundation

Date

DAVID T. BULL, Forest Supervisor
US Forest Service, Bitterroot National Forest

Date

79.9 – Exhibit 01--Continued

**APPENDIX A
DEFINITIONS**

Base Rates. The rate of payment in cash, per unit of measure, to cover the essential reforestation costs. Stewardship credits may not be used as payment for base rates.

Technical and Cost Evaluation. The evaluation used by the Forest Service to award projects. Such consideration shall primarily consider criteria other than cost. These non-price criteria include, but are not limited to, extent of mutual cooperation and benefits, past performance, experience, technical approach, and benefits to the local community.

Included Timber. Live and dead trees and portions thereof that meet utilization standards as specified in Appendix F. To meet minimum tree specifications, trees must equal or exceed tree diameters listed in Appendix F and contain at least one minimum piece. The Partner shall fell and buck such trees and shall remove them from the designated area by the Forest Service and present for scaling all pieces that meet minimum piece standards or would have qualified as part of minimum pieces if bucking lengths were varied to include such material.

Integrated Resource Service Account. The account maintained by the Forest Service of all the Partner's deposits, credits, payment guarantees, and charges for:

Timber at Timber Payment rates;

Brush disposal, road maintenance, and agreement scaling rates;

Stewardship Credits established; and

Other charges provided in this agreement.

Liability for lost value to Included Timber. The party holding title shall bear the timber value loss resulting from damage outlined in Appendix G.

Payment Guarantee. In lieu of establishing Stewardship Credits or establishing advanced deposits, Appendix G, for advance payment of Included Timber, the Partner may guarantee payment by furnishing and maintaining an acceptable surety bond or deposit in a Federal Depository negotiable security of the United States. The securities shall be deposited through the Regional Fiscal Agent accompanied by a power of attorney and agreement authorizing the bond-approving officer to sell or collect such securities if payment is not made within 30 days of billing by the Forest Service. The penal sum of such surety bond or market value at time of deposit of such negotiable securities shall be the maximum amount of the payment guaranteed. In lieu of surety bond or negotiable securities as a payment guarantee, the Partner may use an Irrevocable Letter of Credit when approved by the Forest Service.

Required Deposits. Deposits the Partner may be required to pay for brush disposal (16 U.S.C. 490) and road maintenance (16 U.S.C. 537), erosion control, etc.

79.9 – Exhibit 01--Continued

Retained Receipts. The portion of residual receipts that is deposited in SSCC and retained for transfer to other stewardship contracts or stewardship agreements when approved in advance by the Regional Forester in accordance with sections FSH 2409.19, sections 67.1 and 67.3.

Stewardship Credits. Credits that are earned and established when work listed in the schedule of items has been performed and accepted.

Stewardship Project Proposal. A written request submitted by Forest and Grassland Supervisors to the Regional Forester for review and approval for proposed stewardship projects. The request for approval must include appropriate information about the proposed project, such as land management goals of the project, the total value of the project, products to be removed, the value of services to be received, the value of goods to be exchanged for services, contributed funds or work to be received, and expected residual receipts from the project.

After reviewing a proposed project, the Regional Forester shall approve or disapprove the project through a formal written reply in correspondence to the Forest or Grassland Supervisor. Only the projects and associated work activities approved by the Regional Forester with completed NEPA analysis are to be included in the SPA.

Timber Payment Rates. Included timber that is removed by the Partner and presented for weight scaling in the product form stated in Appendix F shall be given cash or earned stewardship credits for at the rates listed in Appendix F.

Weight Scaling. The rate identified in Appendix F multiplied by the volume per unit of measure (tons) of a loaded truck driven over a weight scale as defined in the National Bureau of Standards Handbook 44, current edition.

APPENDIX B TECHNICAL PROPOSAL

Rocky Mountain Elk Foundation (RMEF) and the Bitterroot National Forest, Sula Ranger District, (FS) jointly developed the following proposal to thin terraced pine plantations, remove included material from the national forest, apply borate to stumps greater than 12 inches is diameter, complete road maintenance necessary to remove product, fabricate a single wing subsoiler, subsoil to decompact, masticate small trees on slopes less than 30%, fertilize in masticated areas and slash small trees on slopes greater than 30%.

79.9 – Exhibit 01--Continued

Both parties agree that due to time constraints this proposal will be very general and will describe the process RMEF plans to follow to gather information needed to develop the detailed technical proposal. This will include preparing the bid package, contractor selection, contract award, project administration and final financial plan preparation. Once RMEF gathers this information and contractors are selected both parties recognize that this technical will be modified to include necessary information including costs.

In Fall 2009, RMEF will prepare a bid package to accomplish treatments listed above to specification described in the schedule of items. RMEF may have a prebid field trip depending on feedback from potential contractors. RMEF will solicit bidders by posting the bid package to their website and notifying their bid list of its postings. The bid will require contractors to explain how they plan to accomplish work, who will do it and the price. Its anticipated that bids will be received within 30 days, and work will begin this calendar year. The ground operation will occur in the spring. Contractors will also be required to provide adequate insurance and bonding. After the bids are received, RMEF will do a preliminary evaluation using the criteria for best value selection as specified in the SPA.

RMEF and the FS will then meet and jointly agree on which contractor or contractors to select. This will include approval of contractor's proposed methods and costs. This will lead to the development of the approved financial plan and the modification of this technical proposal. RMEF will then sign contracts with the selected contractors.

The modified Technical Proposal will include the following information:

10. A plan of operations for both timber harvest and stewardship project work. Include a timeline and the description of work.
11. Quality control plan for how RMEF and the Forest Service will work together to ensure the project is implemented to meet agreed upon objectives and specifications.
12. A progress schedule showing starting and completion dates of various phases of the work.
13. List of contractors and work they will complete.
14. Traffic control plan.
15. A plan for hazard reduction.
16. A plan for erosion control.
17. Designation of RMEF and Forest Service personnel describing responsibilities and authorities.
18. Road maintenance.

79.9 – Exhibit 01--Continued

RMEF will administer the contract to assure objectives of the project are met on the ground. Visual inspection with measurements such as spacing or slash depths, if necessary, will occur. RMEF expects that with the partnership aspects and the experimental nature of this project, administration will be closely coordinated with the FS. If issues develop or an unforeseen condition develops, RMEF envisions we will meet, discuss and then decide on an appropriate course of action. RMEF's representatives will be Al Christophersen for overall responsibility for project agreement, compliance and operations. Bob Schrenk will be responsible for on the ground compliance with the agreement and contracts. He will monitor and make adjustments to operations as necessary. Erin Zwiener will be the project inspector for RMEF. She will also handle all invoicing, payments and reporting. In addition, the selected contractors will designate a representative to insure objectives are met and to control their operations. As discussed with the FS, we would like to start work this fall, but this will be dependant on completion of the SPA, the contractors and the weather.

When this proposal is modified more detail such as contractor, equipment, schedules, safety and other information will be included. Once it is modified and agreed to it will become a part of the contractor's contract with RMEF.

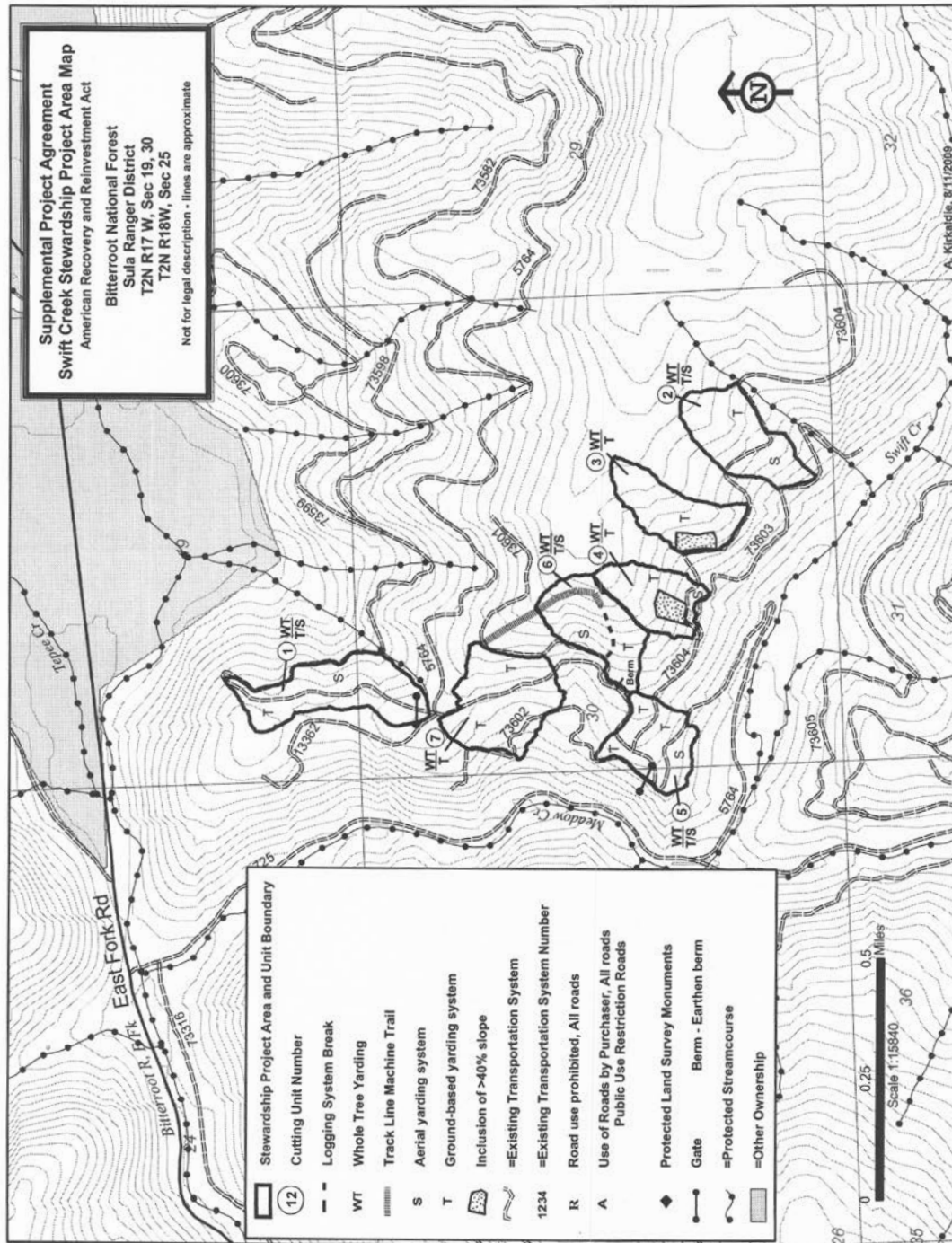
Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.9 – Exhibit 01--Continued

APPENDIX C
MAP OF STEWARDSHIP PROJECT AREA



Forest Service Handbook 1509.11 – Grants, Cooperative Agreements, and Other Agreements Handbook
Chapter 70 - Partnership Agreements
Amendment: 1509.11-2009-1
Effective date: October 20, 2009

79.9 – Exhibit 01--Continued

APPENDIX D
FINANCIAL PLAN

PROJECT NAME: Swift Creek Plantations Thinning
USFS AGREEMENT NO.: 09-SA-11010300-098
COOPERATOR AGREEMENT NO.:
1. Financial Plan Month: Mod No: Agreement Financial Plan

COST ELEMENTS	FOREST SERVICE CONTRIBUTIONS				COOPERATOR CONTRIBUTIONS				THIRD PARTY	
	(a) Non-Cash	(b) Obligation to Pay Coop. Costs (1) Cash	(c) Appraised Value of Forest Product Non-Cash	(d) Services Exchanged for Product Value (2)	(e) Non-Cash	(f) In-Kind	(g) Cash	(h) Cash	(i) Non-Fed	(n) Total
Salaries/Labor	\$29,140.00	*(4)			\$48,000.00	\$35,000.00				\$112,140.00
Travel	\$2,000.00	*(4)			\$1,500.00					\$3,500.00
Equipment		*(4)								\$0.00
Supplies	\$660.00	*(4)								\$660.00
Materials		*(4)			\$15,000.00					\$16,000.00
Pruning		*(4)				\$6,000.00				\$6,000.00
Slash & Fuel Treatments		*(4)								\$32,505.00
Noxious Weed treatment		*(4)								\$13,149.50
Product Value			\$10,975.08					*(3)		\$10,975.08
Required Deposits - (6)								*(3)		\$10,975.08
Subtotal	\$31,800.00	\$188,687.95	\$10,975.08	\$10,975.08	\$64,500.00	\$41,000.00	\$10,975.08	*(6)		\$347,918.11
Indirect Costs					\$4,300.00					\$4,300.00
Total	\$31,800.00	\$188,687.95	\$10,975.08	\$10,975.08	\$68,800.00	\$41,000.00	\$10,975.08			\$352,238.11

Total Forest Service Contributions: **\$220,487.95**
Exhibit #: **574272524**
Total Cooperator Contribution less Exchanged Services (Col D): **\$172,712.87**

Green fields identify possible TSA data figures.

Total Forest Service Share = (a+b+c)/(n) = (p)	(p)
Third Party Contribution-- Federal = (h+k+m)/(n) = (q)	(q)
Total Federal Share = (b+q) = (r)	(r)
Total Cooperator Share (e+f+g+h+i+j) / (n) = (s)	(s)
Total (r+s) = (t)	(t)

Forest Service reimbursement percent (as % of expenses directly incurred by the Cooperator-- i.e., Cooperator's non-cash and cash contributions only-- that are subject to Forest Service reimbursement)

Reimbursable Amount = Total actual cost incurred to date sum of cost elements from the Cooperator's invoice ascribed in agreement provisions (u) minus any previous Forest Service payments, not to exceed the subtotal amount listed in column (c)

(u) 70.28%

Chapter 70 - Partnership Agreements

Amendment: 1509.11-2009-1

Effective date: October 20, 2009

79.9 – Exhibit 01--Continued

Agreement Financial Plan	
PROJECT NAME: Swift Creek Plantations Thinning	
USFS AGREEMENT NO: 08-SA-11010300-098	
COOPERATOR AGREEMENT NO:	Mod No:
2. Cost Analysis:	
Column (a) FS Non-Cash Contribution	Timber Prep Crew (4 persons) to Layout, traverse, and cruise units 8 days = \$ 9,003 plus supplies \$860. GS11 12 days to prepare agreement = \$3280 GS10 40 days to inspect logging/product removal = \$10520. GS9 4 days for TSA reporting = \$557 GS11/12 persons) 20 days each to inspect stewardship items (city & soils service work) = \$14,897. GS12 15 days to administer agreement = \$5280. Travel to and from site will be cost of gas for vehicles *miles X rate = \$900. Indirect costs is subtotal \$47987 X .08 = \$3839.76. Total \$51,837.
Column (b) FS Obligation to Pay Coop.	NTE \$189,000 in all funds to pay: Stewardship items (service work) to be paid for with federal dollars (appropriated, trust funds, permanent funds as allowed). See Appendix E - Schedule of items for breakdown of stewardship projects to be paid for with federal funds. *Policy excludes Cooperator's project development costs from being compensated with federal funds.
Column (c) Value of Forest Products to Reimb. Coop.	NTE \$189,000 in all funds to pay: Stewardship items (service work) to be paid for with federal dollars (appropriated, trust funds, permanent funds as allowed). See Appendix E - Schedule of items for breakdown of stewardship projects to be paid for with federal funds. *Policy excludes Cooperator's project development costs from being compensated with federal funds.
Column (d) Services for exchange	Cost of services performed (see schedule of item for unit rates) by cost element. Costs include equipment, fuel, labor, materials, travel, supervision and administration
Column (e) Coop. Non-Cash Contribution	RMEF project contributions: Director of Stewardship salary \$30,000 (60 days at \$500/day) and travel \$400 (800miles at \$0.5/mile). Stewardship Manager salary \$16,000 (40 days at \$400/day) and travel \$800 (1600 miles at \$0.5/mile). Conservation Coordinator Salary \$2,000 (8 days at \$250/day) and travel \$300 (600 miles at \$0.5/mile). Materials provided are erosion control material, straw, wattles, etc. The indirect amount is the cost to RMEF internally at their indirect rate to support the program cost for this project. RMEF PAC funds are RMEF funds that are allocated within the State of Montana by the PAC.
Column (f) Coop. In-Kind Contribution	RMEF volunteers: 25 people 10 days @ 8 hours/day at \$17.50/hour = \$35,000 to hand pile and slash
Column (g) Coop. Cash Contribution	Required payment of approximately \$10,975.08 Cash or Bond per Appendix D - Timber Removal Specifications.
Column (h) Coop. 3rd Party Cash-Non Fed.	

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USDA Forest Service

Agreement Financial Plan

PROJECT NAME: Swift Creek Plantations Thinning
USFS AGREEMENT NO: 09-SA-11010300-098

Mod No:

COOPERATOR AGREEMENT NO:

(a) **Forest Service Non-Cash Contribution:** Forest Service employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Forest Service indirect cost (overhead) is also included in this column. All the costs listed here are an expense to the Forest Service.

(b) **Forest Service Obligation to Pay Cooperator Expenses:** This is the maximum Forest Service funding to be obligated under the agreement for advance or reimbursement of the Forest Service share of cooperator expenses. This is an expense to the Forest Service.

(c) **Appraised or Bid Value of Forest Products:** Per 36 CFR 223.60 appraisals establishing value of forest products that can be exchanged for stewardship items (project work) provided by cooperator. If Cooperator subcontract removal and obtains bids, this amount should be used to value products for exchange.

(d) **Cooperator services exchanged for product value:** Stewardship service work, performed by Cooperator in exchange for forest product.

(e) **Cooperator Non-Cash Contribution:** Cooperator employee salaries, travel, equipment, supplies, etc., provided toward completion of the project. Total Cooperator indirect cost (overhead) is also included in this column. All the costs listed here are an expense to the Cooperator.

(f) **Value of Cooperator In-Kind Contribution:** Cooperator non-cash contributions provided toward completion of the project for which the Cooperator has incurred no expense. These contributions can be made from the Cooperator or through the Cooperator by other entities and include such items as volunteer labor, donated materials, equipment, supplies, etc. These values are not reimbursable and can only be used to satisfy the Cooperator's matching requirement.

(g) **Cash Contribution to the Forest Service:** Cooperator cash contribution provided to the Forest Service for use in completing the project. This is an expense to the Cooperator. Display by Cost Element where these funds will be expended.

(h) **Third Party Cash Contribution Non-Federal:** Cash contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element expenditures.

(i) **Third Party Cash Contribution Federal:** Cash contributions provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element expenditures.

(j) **Third Party Non-Cash Contribution Non-Federal:** Non-cash contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element Expenditures.

(k) **Third Party Non-Cash Contribution Federal:** Non-cash contribution provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element Expenditures.

(l) **Third Party In-Kind Contribution Non-Federal:** In-kind contribution provided to the Cooperator from Non-Federal organization(s) for use in the project. Display these contributions by Cost Element Expenditures.

(m) **Third Party In-Kind Contribution Federal:** In-kind contribution provided to the Cooperator from Federal agency(ies) for use in the project. Display these contributions by Cost Element Expenditures.

(n) **Total Project Value:** The sum of all the values provided toward the project. This figure reflects the true estimated cost of the project.

Burden Statement

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number for this information collection is 0598-NW. The time required to complete this information collection is estimated to average XX minutes per response, including the time for reviewing existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

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To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9922 (voice). TDD users can contact USDA through local relay for the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.

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Amendment: 1509.11-2009-1

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PROJECT NAME: Swift Plantations Thinning
USFS AGREEMENT NO: 09-CS-11010300-098
COOPERATOR AGREEMENT NO:
Mod No:
EXHIBIT:

SCHEDULE OF STEWARDSHIP ITEMS

Item No.	Description	Method of Meas.	Unit	Quantity	Unit Price	Total	Breakdown of Services to be paid for with appropriated product value	Breakdown of Services to be paid for with Federal Dollars	Total Cooperator Provided Service Work	Completed Date
	Mandatory Stewardship Projects:									
01	On slopes <30%: Cutting, whole-tree yarding (using ground-based methods) and delivering small trees. Includes road maintenance for wood product hauling.	GPS	Acres	100.00	\$222.79	\$22,279.04	\$197.06	\$22,081.98		
02	On slopes >30%: Cutting, whole-tree yarding (using aerial methods) and delivering small trees. Includes road maintenance for wood product hauling.	GPS	Acres	38.00	\$559.45	\$21,259.15	\$75.02	\$21,184.13		
04	Application of EPA registered borate compound to stumps >12 inches in circumference.	GPS	Acres	138.00	\$25.76	\$3,554.88	\$0.00	\$3,554.88		
05	Fabricating one single-winged subsoiler per specifications. May be in combination with masticating head (see Appendix X for drawings).	Count	Each	1.00	\$11,872.00	\$11,872.00	\$0.00	\$11,872.00		
06	Subsoiling terrace benches with single-winged subsoiler. May be performed in combination with masticating.	Count	Day	17.00	\$4,480.00	\$76,160.00	\$0.00	\$76,160.00		
07	Masticating small trees (approximately 2-7" DBH) on slopes <30%. Applying slow release, organic based fertilizer to masticated area.	GPS	Acres	100.00	\$472.64	\$47,264.00	\$0.00	\$47,264.00		
08	Slashing small trees (approximately 2-7" DBH) on slopes >30%.	GPS	Acres	38.00	\$165.76	\$6,298.88	\$0.00	\$6,298.88		
09										
10										
TOTAL:				432.00		\$188,487.95	\$272.08	\$188,415.87	\$0.00	01/00/00

TOTAL APPRAISED VALUE OF FOREST PRODUCT FROM FINANCIAL PLAN:

Difference Should be Zero

\$272.08

\$0.00

79.9 – Exhibit 01--Continued

**APPENDIX F
SCHEDULE OF ITEMS AND SPECIFICATIONS**

SCHEDULE OF ITEMS:

19. ITEM NO.	20. SCHEDULE OF SUPPLIES/SERVICES	21. QUANTITY	22. UNIT	23. UNIT PRICE	24. Amount
1.	On slopes <30%; Cutting, whole-tree yarding (using ground-based methods) and delivering small trees. Includes road maintenance for wood product hauling.	100	AC		
2.	On slopes >30%; Cutting, whole-tree yarding (using aerial methods) and delivering small trees. Includes road maintenance for wood product hauling.	38	AC		
3.	Application of EPA registered borate compound to stumps >12 inches in circumference.	138	AC		
4.	Fabricating one single-winged subsoiler per specifications. May be in combination with masticating head (see Exhibit 1 and 2 for drawings).	1	EA		
5.	Subsoiling terrace benches with a single-winged subsoiler (approximately 25 acres). May be performed in combination with masticating.	17	Day		
6.	Masticating small trees (approximately 2-7" DBH) on slopes <30%. Applying slow release, organic based fertilizer to masticated area.	100	AC		
7.	Slashing small trees (approximately 2-7" DBH) on slopes >30%.	38	AC		

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Values of products removed to be applied at Flat Rates						
SPECIES	PRODUCT	ESTIMATED QUANTITY	UNIT OF MEASURE	MINIMUM ACCEPTABLE OFFER	OFFER (FLAT)	TOTAL OFFER
All (Live /dead)	Non-saw timber	869	Tons	0.31		
See Timber Removal Project Terms and Specifications in Appendix B, F and G.						

SPECIFICATIONS. *[By item number, describe the type of work, i.e., slash treatment, weed treatments, etc. and the corresponding specifications.]:*

GENERAL SERVICE WORK REQUIREMENTS

Unless otherwise agreed to in writing by both parties, the RMEF shall treat service work with the following general requirements:

Commercial Timber Units. All Units are considered commercial timber units for the purposes of this Agreement and proposed treatments involving the removal of Timber requires adherence to Appendix B, G and H.

Unit Identification. All Units are identified on the ground by blue flagging. Boundaries are painted in orange. Riparian areas exist within units. Those areas have been flagged, painted, measured with recreational grade GPS and their acreages removed from treatment items.

Locked Gates. In cases where the units are behind locked gates, the RMEF shall close and lock gates after entering or exiting each gate and will be subject to all other restrictions of administrative use. The RMEF shall be permitted to drive from the locked gate to the unit with only the minimum number of vehicles necessary for efficient transportation of the crew. No firearms are permitted behind locked gates during hunting season as this is perceived to be an unfair advantage by other hunters.

Resource Protection. The RMEF shall exercise care to prevent damage to existing facilities, developments, and resources in all aspects of the Agreement work.

Existing Facilities. Throughout the operations, the RMEF shall prevent damage to facilities including roads, erosion dips, barriers, and other road/trail drainage systems, developments, streams and other identified resources. Resources maybe identified on the Agreement Area Map or in writing. Improvements damaged, that are identified on the Map, shall be replaced or repaired at no cost to the Government.

79.9 – Exhibit 01--Continued

Special Protection Measures.

Cultural Resource Protection Measures: Immediately notify Forest Service of any discovered Cultural Resources.

Wildlife and Botanical Protection Measures: If water is drafted from a fish-bearing stream, the intake hose must be fitted with a mesh screen equal to or smaller than 3/32 inches. Place intake hose in low velocity portions of the stream channel (generally < 0.4 feet/second of flow). If a new active northern goshawk nest is found, no commercial harvest will occur within 30 acres of that nest.

To ensure adequate protection of nesting goshawks and their young from disturbance during the critical incubation, nesting and post fledgling periods:

- 1) If an active northern goshawk nest is found within or proximate to an activity unit, project activity shall be limited to September 1 through March 30 (i.e. restricted from April 1 through August 30) within a 650 foot radius circle centered on the nest which is equivalent to a 30 acre nest buffer.
- 2) Activities shall be limited to August 1 through March 30 (i.e. restricted from April 1 through July 30) within the 420 acre post fledgling area of known active nests or new (previously unknown) active nests, unless otherwise approved by the wildlife biologist in writing after consideration of the activities and their potential to disturb goshawks.

SERVICE WORK ITEM SPECIFICATIONS

<u>Item Number</u>	<u>Treatment</u>	<u>Description</u>
1	Timber Removal Activities (Ground Based)	In all Units where slopes are <30%; Remove all live trees not meeting spacing requirements excluding orange painted boundary trees, perform road maintenance and erosion control on roads and landings. Partner is subject to timber removal, road maintenance and erosion control specifications in Appendix G, item F.8.
2	Timber Removal Activities (Aerial Yarding)	In all Units where slopes are >30%; Remove all live trees not meeting spacing requirements excluding orange painted boundary trees and perform road maintenance and erosion control on roads and landings. Partner is subject to timber removal, road maintenance and erosion control specifications in Appendix G, F.8.

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<u>Item Number</u>	Treatment	Description
3	Stump treatment	<p>In ALL units, treat the stumps of all live trees cut by Partner that have a stump diameter larger than 12 inches. Treatment should be done as soon after tree felling as practical, preferably within one (1) or two (2) hours, but no later than 24 hours. Treatment shall consist of removing sawdust and other loose debris from the cut surface of the stump including exposed wood surfaces on all sides and application of powdered borate according to the following instructions: Apply enough borate to lightly cover stump surface including exposed wood surfaces on all sides (approximately one (1) pound borate per 50 square feet of exposed wood surface). Apply the material to all exposed wood surfaces. .</p> <p>RMEF shall use Sporex, which is the only product currently approved by the Environmental Protection Agency (EPA) for annosus root disease control.</p>
4	Fabrication of sub-soiler	<p>Fabricate a subsoiling grapple rake (SGR) with a single wing (Exhibit 1 and 2). The subsoiling implement shall be designed with a coulter blade, a curvilinear shank approximately 2 feet long, and a winged tooth with a total wingspan of at least 7 inches. The coulter blade shall be designed to slice through the soil in front of the subsoiling shank to minimize surface disturbance of organic horizons and vegetation. The curved shank in combination with the winged tooth is a critical design feature. The curved shank and winged tooth shall be able to achieve proper soil decompaction to a depth of 2 feet while preventing detrimental soil mixing and disturbance to soil horizons. Subsoiler design should also consider the ability to masticate and place slash, since it is desirable to subsoiling and treat slash in one pass.</p>

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<u>Item Number</u>	Treatment	Description
5	Sub-soiling	<p>On slopes <30%, the following work shall be performed by the RMEF with an articulating cab excavator/harvester of appropriate size with an appropriate attachment, unless, the RMEF proposed as part of an alternate offer, a different solution for achieving the requirements stated below, and the Forest Service accepted that alternate offer. The acceptable subsoiling implement will be designed to operate on the boom of an excavator/harvester with an articulating cab. An excavator/harvester with an articulating cab will be required to safely operate on the uneven and sloping terrain of the terraces</p> <p>In all Cutting Units, terrace benches, landings, and skid trails used by the RMEF shall be subsoiled to a minimum depth of 20 inches, except that Forest Service may agree to lesser depths. The compacted soil shall be slightly lifted and well-fractured rather than plowed, mixed, or displaced. Subsurface rocks should not be pulled to surface and large supportive roots should also not be severed. Masticated slash should be placed on treated areas in conjunction with subsoiling. Subsoiling and masticating should be completed in one pass to prevent compacting or displacing treated areas. The distance between subsoiler shank passes shall not exceed 24 inches. Treated areas shall span the total width of compaction on landings and skid trails. Treated areas on terrace benches shall be completed in voids where trees are thinned and not within the driplines of leave trees to protect roots from damage.</p>
6	Mastication	<p>On slopes <30%: Masticate sub-merch trees (<6.4"DBH) to create 5-7 tons of wood debris as estimated using photo series guides. Where there are not enough sub-merch trees available, utilize non-saw to meet the 5-7 tons. Stump height will be no more than 6 inches on the uphill side. Wood debris should be spread less than 2" in depth. A slow release organic fertilizer shall be applied to the debris based on manufacture's recommended rate. Fertilizer specifications include: Nitrogen at 6-8%, Phosphorus at 2-4%, and Potassium at 3-4%. Do not damage residual trees by wounding boles. Minimize travel on terrace slopes.</p> <p>Should be performed in combination with sub-soiling (Item 5).</p>

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<u>Item Number</u>	Treatment	Description
7	Slashing	<p>On slopes >30%: Slash the smallest diameter excess trees available (2" diameter minimum) to create 5-7 tons of wood debris as estimated using photo series guides. Stump height will be no more than 6 inches on the uphill side. Lop, Buck & Scatter activity fuels, outside the driplines of crowns. Buck to lengths less than 18 inches. Lop and Scatter to less than 24" in depth.</p> <p>Cut material shall not lean against an uncut tree, stump, log, or and obstacle. It shall be secure and not able to roll down hill.</p>

FOREST SERVICE QUALITY ASSURANCE PLAN

The following describes the major items in the Agreement with the incentives and deductions for the work described. Items below are included here as requirements.

Work Statement	RMEF Performance Standard	Forest Service Method of Assessment
Timber Removal Activities	Meets Timber Felling, Bucking, & Stump treatment requirements specified in Appendix F and G.	FS will conduct periodic monitoring.
Yarding	Meets Yarding treatment and safety requirements in Appendix F and G	FS will conduct periodic monitoring.
Timber Delivery	All material meeting the utilization standards in Appendix F and G shall be removed from Forest Service Lands.	FS will conduct periodic monitoring.
Subsoiler Fabrication	Implement constructed according to agreed upon specifications drawings	FS will review and approve quality
Subsoiling, Slashing, & Fertilizing	Meets specifications within Appendix E.	FS will conduct periodic monitoring
RMEFs Quality Control Inspection System	RMEF provides Forest Service with an acceptable quality control inspection system.	FS will review and approve quality control inspection system.
RMEFs Quality Control	Inspection is completed as promised in the RMEFs Quality Control Inspection System	FS will review RMEFs Quality Control data sheets and revisit a sample of the inspection locations.

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Work Statement	RMEF Performance Standard	Forest Service Method of Assessment
Work Plan and Schedule for Items 1-7	Prior to the commencing work, RMEF provides Forest Service with an acceptable Work Plan and Schedule for all Items.	FS will work with RMEF to ensure all items are addressed and both parties agree to them

APPENDIX F
Timber Removal and Road Maintenance Specifications

F.1 – Location and Area -
This Stewardship Project Area of 138 acres more or less are located in: Sections 19 & 30 of T.2N., R.17W, PMM.

F.2 -Volume Estimate and Utilization Standards.

Species	Product	Estimated Quantity	Unit of Measure	Minimum Specifications				
				Merchantable Tree		Piece Required to be Removed		
				Diameter Breast High (d.b.h.) (inches)	Number of Minimum Pieces per Tree	Length (feet)	Diameter Inside Bark at Small End (inches)	Net Merch. Factor 1/
All (live/dead)	Non-saw timber (08)	869	Tons	5.6	1	12	3.0	8.0
Total Quantity								

1/ Enter Merchantability Factor (Merch. Factor) or Net Scale in % of Gross Scale, whichever is appropriate.

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F.3- High Stumps.

Species	Product	Maximum Stump Height (inches)
All	Non-Sawtimber	12

F.4– Timber Rates. (Scaled)

Cutting Unit Number	Approx. Acres	Species	Product	Quantity	Unit of Measure	Rate of Payment \$/UOM	Required Deposit per unit of measure
1	25	All (live/dead)	Non-saw (08)	156	Tons	0.31	None
2	20	All (live/dead)	Non-saw(08)	129	Tons	0.31	None
3	18	All (live/dead)	Non-saw (08)	111	Tons	0.31	None
4	15	All (live/dead)	Non-saw (08)	93	Tons	0.31	None
5	16	All (live/dead)	Non-saw (08)	102	Tons	0.31	None
6	19	All (live/dead)	Non-saw (08)	120	Tons	0.31	None
7	25	All (live/dead)	Non-saw (08)	159	Tons	0.31	None

F.5 - Timber Rates. (Tree Measurement)

Payment Unit Number	Approx. Acres	Species	Product	Quantity	Unit of Measure	Total Payment	Required Deposit per Payment Unit
None							

79.9 – Exhibit 01--Continued

F.6 - Timber Designations. Timber designated for cutting shall be confined to the Stewardship Project Area. No undesignated timber shall be cut without prior notification to and approval of the Forest Service. Prescriptions/timber designations are included later in this subsection.

	Number	Acres
Clearcutting Units		
Specified Road Clearing		
Overstory Removal Units		
Understory Removal Units		
Individual Trees		
Incompletely Marked Timber		
Designation by Spacing		138

F.7 - Cutting Unit Boundary Designation. The boundaries of cutting units are designated as shown in the following table. The trees used for boundary designation are not to be cut.

Cutting Unit	Paint Color	Designation
All	Orange	Designation by Spacing

F.8 Tree Designation/Prescriptions.

Within all units, live ponderosa pine trees will be spaced a maximum average of 16 feet apart. Select as leave trees the largest diameter tree free of damage and defect with a healthy live crown. Leave up to 6 non-ponderosa pine trees per acre when they are >7"stump diameter (>6"DBH), healthy and meet the spacing requirements. Do not leave a smaller live tree within 8 feet of a larger live tree (based on stump diameter).

Do not cut boundary trees Marked with ORANGE paint or snags.

79.9 – Exhibit 01--Continued

F.9- Control of Operations.

Conduct of Logging. Unless otherwise agreed in writing, silvicultural prescriptions and land management objectives shall be conducted and accomplished by the following requirements, methods and procedures:

Cutting Unit	Conduct of Logging
All landings	Prior to construction of all non-specified landings, RMEF shall submit a written plan, drawing or sketch with measurements relating to size, shape, location, drainage, traffic patterns and anything else deemed significant at the site, such as slash disposal. Clearing limits shall be flagged on the ground. Construction limits shall be staked. RMEF shall describe, in writing, how and where the landing and logging slash will be handled and treated and mitigating measures that require attention, and submit a plan for rehabilitation of the site to be either self maintaining for future use, or productive once more.

Following completion of skidding and yarding operations in an area, RMEF shall seed and fertilize all exposed areas of raw soil on skid trails, landings, firebreaks, slides, slumps, temporary roads and traveled ways of National Forest system roads scheduled for stabilization by RMEF after operations.

Soil on areas to be seeded shall be left in a roughened condition favorable to the retention and germination of the seed. Seed and fertilizer shall be spread evenly at the rate of (see below) pounds of seed and (see below) pounds of fertilizer per acre. When fertilizer and seed are applied in separate operations, the second operation shall be carried out within 72 hours of the first.

Application shall be during the period (Sept. 1 to Oct. 15) or (April 15 and June 1) and under the above specified conditions unless otherwise approved.

The kinds and amounts of seed to be sown in terms of pure live seed (PLS) shall be:

Mix #1: Use on disturbed, harsh, dry sites, such as road cuts, temporary roads, skid trails, landings, road obliterations where native species are not likely to re-colonize the area and weed and erosion control are a major concern (add low nitrogen, organic slow release fertilizer):

79.9 – Exhibit 01--Continued

Mix #1		# PLS/acre
Pryor Slender Wheatgrass		8
Quatro Sheep Fescue		4
Critana Thickspike Wheatgrass		8
Yarrow		0.25
	Total	20.25

RMEF shall provide to the Forest Service:

1. Blue tags, or copies of blue tags from each seed lot used in the specified mix. Only certified, blue-tagged seed shall be used. The blue tag represents a field certification and serves as evidence of the genetic purity and varieties identity of the seed contained in the seed lot.
2. Labels which indicate the percentage composition of the various species in the seed mix.
3. Copies of Seed Analysis Reports from a certified seed analyst for each seed lot used in the specified mix. RMEF will obtain this report from the seed provider. Seed Analysis Reports must include at a minimum, content of any noxious weed seeds listed on the current "State of MONTANA Noxious Weeds List". Only after the Forest Service has verified that this report indicates the seed does not contain any weeds on the current "State of MONTANA Noxious Weeds List", will the seed be accepted and used.

The following kinds and amounts of standard commercial fertilizer shall be used with guaranteed analysis of contents clearly marked on containers:

Type of Fertilizer	Pounds Per Acre
Organic, Slow release fertilizer with an N-P-K formulation of 6-8% Nitrogen, 2-4% Phosphorous, 3-4% Potassium	Applied at the manufacturers recommended rate

Weight Scaling. The parties mutually agree to meet scaling needs. Volume determination shall be based on Weight Measurement unless otherwise agreed. Products shall be weighed on certified scales at locations agreed to by RMEF and Forest Service. The weight ticket, showing sale name, truck ticket number, date and time weighed, and the gross and tare weights, shall be attached to the Truck Ticket Scaler Receipt/Permit and placed in the location(s) as designated by the Forest Service. Upon request, RMEF shall furnish Forest Service a copy of the scales certification.

79.9 – Exhibit 01--Continued

In the event of weight scale equipment breakdown or suspension of use for other reasons, hauling will be suspended until RMEF and Forest Service agree to an alternate weighing location.

If load removal receipts or weigh tickets are not provided for any reason, Forest Service shall use data from the records during the period in which loss occurred to determine weight of load(s). The weights of such load(s) shall be deemed equal to the load with the heaviest net weight presented during the payment period in which the loss occurred.

Payment for lost products may not be required if Forest Service determines that the weight of such lost products involved is small and justified by existing conditions.

Weight Accountability. Products shall be accounted for as follows:

A. Requirements Applicable to RMEF Accountability Obligations

Where RMEF's product accountability responsibilities are concerned, all operations performed by RMEF's employees, agents, contractors, subcontractors, their employees or agents, RMEF's obligations shall be the same as if performance is by RMEF.

B. Requirements Applicable to Woods Receipt Ticket Book

1. The Forest Service will issue to RMEF, or their designated representative(s), serially numbered Woods Receipt ticket books for use only on this sale. Woods Receipt ticket books whether used or unused shall be accountable property of the Forest Service and shall be returned to the issuing District Ranger in accordance with instructions contained on cover of each book.
2. RMEF shall require:
 - a. All receipts be filled out in ink by an individual named in writing other than the truck driver and be attached to load before products are hauled from immediate vicinity of or adjacent to location where loading is done showing date loaded, brand, sale name, and destination where products will be weighed. Receipts shall be attached in accordance with instructions on inside cover of Woods Receipt ticket book.
 - b. Before products are hauled, truck driver to sign legal signature in ink on Woods Receipt stub.

79.9 – Exhibit 01--Continued

- c. RMEF shall assure that all used scaler receipts are returned to the issuing Forest Service or as otherwise agreed.

C. Requirements Applicable to Weight Slips

1. RMEF shall assure that:
 - a. All products removed are presented for weighing at agreed to locations and that gross and tare weights are obtained on certified scales.
 - b. That weight slips for each load are attached to the proper scaler receipt and deposited in accordance with procedures established by the Forest Service.

F.10 - Roads. The Partner is authorized to construct and maintain roads, bridges, and other transportation facilities, as needed for conducting treatments on National Forest and other lands where Forest Service has such authority. **As used in this Supplemental Project Agreement, “construct” includes “reconstruct.”**

F.10-a– Specified Roads.							
Name and Date of Governing Road Specifications:							
Project		Design Class	Approx. Length (mi./km.)	Sheet Numbers and Approval Date	Performance Responsibility		
					Survey	Design	Const. Staking
N/A							

F.10-b - Road Maintenance Requirements.

RMEF shall maintain roads, commensurate with RMEF’s use, in accordance with Road Maintenance Requirements and the Road Maintenance Specifications located in this Appendix. Performance of road maintenance work by RMEF may be required prior to, during, or after each period of use. The timing of work accomplishment shall be based on RMEF’s Work Plan and road conditions.

79.9 – Exhibit 01--Continued

1. **ROAD TREATMENT TYPES.** Treatment Types for this Appendix are described in the following table:

TREATMENT TYPE	DESCRIPTION
T Specifications	The tables below specifically identify which T Specification is applicable to each identified road. Applicable T Specifications are included in this Appendix.
Dust Abatement	RMEF shall perform Dust Abatement on all roads identified in the tables below, in accordance with the Dust Abatement Specifications included in this Appendix.
Snow Removal	RMEF shall perform Snow Removal on all roads identified in the tables below, in accordance with the Snow Removal specifications included in this Appendix.

2. **ROAD MAINTENANCE SPECIFICATIONS.**

RMEF shall maintain roads in accordance with the following Agreement Road Maintenance Requirements Summary:

Agreement Road Maintenance Requirements Summary

Pre-haul Road Maintenance

Road	Termini		Miles	Applicable Pre-haul Road Maintenance Specifications									
	From	To		T-101	T-103	T-108	T-301	T310	T-508				
5764	Jct. 725	Jct. 13362	1.8	C	C	C	C	C	C				
13362	Jct.. 5764	Jct.. END	2.2	C	C	C	C	C	C				
73602	Jct.. 5764	END	0.6	C	C	C	C	C	C				
73604	Jct.. 5764	Jct.. END	1.4	C	C	C	C	C	C				
73601	Jct.. 5764	Jct.. END	0.9	C	C	C	C	C	C				

C = RMEF Performance Item

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Road	Termini		Miles	Applicable During Haul Road Maintenance Specifications									
	From	To		T-101	T-103	T-108	T-301	T310	T-508		ASR		
5764	Jct.. 725	Jct.. 13362	1.8	C	C	C	C	C	C				
13362	Jct.. 5764	Jct.. END	2.2	C	C	C	C	C	C				
73602	Jct.. 5764	END	0.6	C	C	C	C	C	C				
73604	Jct.. 5764	Jct.. END	1.4	C	C	C	C	C	C				
73601	Jct.. 5764	Jct.. END	0.9	C	C	C	C	C	C				

Road	Termini		Miles	Applicable Post Haul Road Maintenance Specifications									
	From	To		T-101	T-103	T-108	T-301	T310	T-508		ASR		
5764	Jct.. 725	Jct.. 13362	1.8	C	C	C	C	C	C				
13362	Jct.. 5764	Jct.. END	2.2	C	C	C	C	C	C				
73602	Jct.. 5764	END	0.6	C	C	C	C	C	C				
73604	Jct.. 5764	Jct.. END	1.4	C	C	C	C	C	C				
73601	Jct.. 5764	Jct.. END	0.9	C	C	C	C	C	C				

C = RMEF Performance

T-SPECIFICATIONS

SPECIFICATION T-101 SURFACE BLADING

DESCRIPTION

1.1 Surface blading is keeping the native or aggregate surfaced road in a condition to facilitate traffic, minimize additional future maintenance, reduce erosion, and provide proper drainage. It includes maintaining the crown, inslope or outslope of the traveled way and shoulders, drainage dips, leadoff ditches, berms, turnouts, removal of minor slides and slumps, and other irregularities that prevent normal runoff from the road surface.

79.9 – Exhibit 01--Continued

REQUIREMENTS

3.1 Surface blading shall be performed as often as necessary and to the standards required to facilitate traffic and proper drainage.

3.2 The blading shall be performed in such a manner as to preserve the existing cross section and to conserve surface materials. On gravel surfaced roads, the base must not be disturbed and no surface material may be bladed into the ditch or over the road shoulders. Blading of native surface roads shall be performed so no base material under four (4) inches in the greatest dimension is lost. All ruts, holes, etc., shall be removed by scarifying and/or cutting to the bottom of any surface irregularities. Oversize material brought to the surface in the scarification process shall be removed from the roadway. Surface material which has been displaced to the shoulders, turnouts, outside of curves, etc., shall be brought back so as to leave a uniform depth on the traveled way at completion of blading. Water shall be applied during blading if sufficient moisture is not present to prevent segregation.

3.3 Roadside cutslopes or berms shall not be undercut.

3.4 At intersections, the roadbeds of sideroads shall be graded for a reasonable distance to assure proper blending of the two riding surfaces.

3.5 Drainage dips and leadoff ditches shall be cleaned and continually maintained to conform reasonably to their original constructed lines, grade, and cross section.

3.6 Berms shall be repaired promptly by placing selected material as needed to restore the berm to its original condition.

3.7 Surface blading of native surface roads also includes ditch cleaning, which shall be done in accordance with T-301, Ditch Cleaning.

3.8 All blading operations shall be properly signed in accordance with Appendix H and all applicable State Laws.

SPECIFICATION T-103 DUST ABATEMENT

DESCRIPTION

1.1 Dust abatement consists of road surface preparation and application of materials.

79.9 – Exhibit 01--Continued

MATERIALS

2.1 Water, bituminous products, lignin sulfonates, chloride products, and other materials may be used for dust abatement. Materials other than water will require approval of the Forest Service and shall meet specifications furnished by the Forest Service.

REQUIREMENTS

3.1 Dust abatement materials shall be applied to the road surface as necessary to control surface loss and provide that vehicles are always intervisible within their stopping sight distance. The average user speed on the road shall be used to determine stopping sight distance. Preparation shall be in accordance with Specification T-101, Surface Blading.

3.2 The rate of application shall be such that the selected material will not run off the surface and cause pollution or unnecessary waste.

3.3 When water is the selected material, it shall be applied as often as necessary to abate dust from all RMEF operations.

Dust abatement shall be maintained as needed throughout the duration of operations.

SPECIFICATION T-108 SLIDE REMOVAL AND SLUMP REPAIR

DESCRIPTION

1.1 Slide removal and slump repair consists of all work necessary to restore the road to its original cross section as necessary to facilitate use and provide drainage. This work is such that it cannot be handled by a grader during surface blading and ditch cleaning operations.

Slump repair is the filling with selected material of depressions or washouts in roadway which cannot be routinely filled by a motor grader.

Slide removal and slump repair includes excavation, loading, hauling, placing, and compacting of replacement material and the removal and disposal of waste material. This includes the development of disposal of borrow areas at locations approved by the Forest Service.

REQUIREMENTS

3.1 RMEF shall deposit slide material in an approved manner at designated locations.

Material shall not be disposed of on road fills unless otherwise agreed.

The slope which contributed the slide material shall be reshaped as practicable to reduce future sliding unless otherwise agreed.

79.9 – Exhibit 01--Continued

3.2 When filling slumps and depressions, select material shall be used, placed in layers, and compacted to conform with or exceed the density of existing subgrade.

Existing aggregate surfacing shall be salvaged and relayed or replaced after slumps have been filled.

Damaged aggregate base, aggregate surfacing, and asphalt surfacing shall be repaired under Specification T-113, Surfacing Repair.

3.3 Following slide removal, roadway shall be shaped so as to reasonably conform to its original subgrade template.

3.4 Slump, waste, and borrow areas shall be seeded as required under T-508.

SPECIFICATION T-301 DITCH CLEANING

DESCRIPTION

1.1 Ditch cleaning is removing and disposing of all slough material from roadside ditches to provide an unobstructed waterway conforming reasonably to previous line, grade, and cross section.

REQUIREMENTS

3.1 Slough Material.

- A. Native Surfaced Roads. Slough material from ditch cleaning, if suitable, may be placed and blended into the existing road surface or shoulders or placed in a designed berm during surface blading.
- B. Aggregate Surface Roads. Slough material from ditch cleaning shall not be mixed with aggregate surfacing or left on the road surface unless otherwise agreed. Material shall be disposed of in an agreed manner at designated locations.
- C. Asphalt Surfaced Roads. Equipment, methods, and timing shall be agreed to before start of ditch cleaning operations so as to protect the asphalt pavement. Material shall be disposed of in an agreed manner at designated locations.

SPECIFICATION T-310 MINOR DRAINAGE STRUCTURES

DESCRIPTION

1.1 Minor drainage structures are single passages with maximum waterway opening equivalent to a 78-inch round pipe (87- by 63-inch arch) or multiple passages with maximum, single waterway opening equivalent to a 60-inch round pipe (66- by 51-inch arch). They include overside drains. Maintenance is work performed on inlets, outlets, related channels, existing riprap, trash racks, and drop inlets.

79.9 – Exhibit 01--Continued

MATERIALS

2.1 All materials used in the maintenance of minor drainage structures shall conform by type and specification to the material in the structure being maintained.

REQUIREMENTS

3.1 All minor drainage structures are to be maintained in accordance with these specifications in the spring following any significant runoff and prior to the beginning of winter storms.

3.2 Clear inlet and outlet channels, inlet trash racks, and drop inlets of loose material that could cause plugging or prevent the free flow of water. Debris shall be disposed of in agreed manner at designated locations.

3.3 If outlet riprap was originally placed to dissipate water energy, it shall be maintained in good condition including the replacement of riprap if necessary.

4.1 Make whatever minor repairs are necessary to ensure the proper functioning of the head walls, aprons, inlet assemblies, overside drains, riprap, trash racks, and other facilities related to the drainage structure.

SPECIFICATION T-508 SEEDING

DESCRIPTION

1.1 Seeding is the application of seed and fertilizer to areas where vegetation has been disturbed as a result of slides, slumps, disposal of materials, and other RMEF's operations in connection with road maintenance.

REQUIREMENTS

3.1 RMEF shall provide and apply the required kinds and amounts of seed and fertilizer in accordance with the requirements in Appendix H.

3.2 Surfaces of areas to be treated shall be in a loose and roughened condition favorable to the retention and germination of seed.

SNOW REMOVAL. Snow removal shall be done in a manner to preserve and protect the roads to insure safe and efficient transportation and to prevent unacceptable erosion damage to roads, streams, and adjacent lands.

79.9 – Exhibit 01--Continued

- A. Description. Snow removal work by RMEF shall include:
1. Removal of snow from entire road surface width including turnouts.
 2. Removal of snow slides, minor earth slides, fallen timber and boulders that obstruct normal road surface width including turnouts.
 3. Maintain drainage so that the drainage system will function efficiently.
- B. Performance. All items of snow removal shall be done currently as necessary to insure safe, efficient transportation. Work shall be done in accordance with the following minimum standards of performance.
1. Removal of material. All debris, except snow and ice, that is removed from the road surface and ditches shall be deposited away from stream channels at agreed locations.
 2. During snow removal operations, banks shall not be undercut nor shall gravel or other selected surfacing material be bladed off the roadway surface.
 3. Ditches and culverts shall be kept functional during and following roadway use.
 4. Snow berms shall not be left on the road surface. Berms left on the shoulder of road shall be removed and/or drainage holes shall be opened and maintained. Drainage holes shall be spaced as required to obtain satisfactory surface drainage without discharge on erodible fills.
 5. Dozers and skidders shall not be used to plow snow on system roads without written approval of Forest Service. Upon approval, dozers and skidders must be equipped with shoes or runners to keep the plow blade a minimum of 4 inches above the road surface unless specifically removed from the requirements in writing.
 6. Snow must not be removed to the road surface. A minimum 4 inch depth must be left to protect the roadway.
 7. RMEF's damage from, or as a result of, snow removal shall be restored in a timely manner.

F.10c-Use of Roads By the Partner. RMEF is authorized to maintain roads, bridges, and other transportation facilities, as needed for harvesting Included Timber on National Forest and other lands where Forest Service has such authority. The location and clearing widths of all

79.9 – Exhibit 01--Continued

Temporary Roads or facilities shall be agreed to before construction is started. RMEF is authorized to cut and use for construction without charge construction timber designated by agreement.

Except as provided herein, RMEF is authorized to use existing National Forest roads and Specified Roads, when such use will not cause damage to the roads or National Forest resources and when hauling can be done safely. If RMEF's use of an existing temporary or National Forest system road cannot be satisfactorily accommodated without reconstruction, RMEF shall be authorized to use such road upon agreement as to the minimum reconstruction work that RMEF shall perform before hauling.

The Agreement Area Map shows existing temporary or permanent roads that for such reasons as limitations in structural capacity, safety, and protection of soil, water, and roads:

- (a) Cannot be used for log hauling or
- (b) May be used only under the restrictive limitations stated therein.

RMEF's use of existing roads identified on Timber Removal Area Map by the following codes is prohibited or subject to restrictive limitations, unless agreed otherwise:

Code	Use Limitations
X	Hauling prohibited
R	Hauling restricted
U	Unsuitable for hauling prior to completion of agreed reconstruction
P	Use prohibited
A	Public use restriction
W	Regulation waiver

Roads coded A will be signed by the Forest Service to inform the public of use restrictions. The Partner's use of roads coded R, A, or W shall be in accordance with the following restrictions:

79.9 – Exhibit 01--Continued

Restricted Road List

Road Number	Road Name	Termini		Map	Description of Restrictions
		From	To	Legend	
All FS Roads				R	No log hauling or roadwork will occur on any weekend or federal holiday throughout the big game rifle season (October 15 to December 1) without Forest Service approval.
All FS Roads				A	Public use of trails and roads affected by logging or roadwork will be closed to travel (including snowmobiles) when operations pose a danger to Forest users.

F.10-d. USE BY OTHERS

The Forest Service shall have the right to use any road constructed by RMEF under this Agreement for any and all purposes in connection with the protection and administration of the National Forest. Other parties, in connection with the logging of tributary National Forest timber, may use roads constructed by RMEF hereunder when such use will not materially interfere with RMEF's operations. Such third party use shall be contingent upon the third party paying a fair share of maintenance cost commensurate with such commercial use. Unless otherwise provided, the Forest Service shall authorize other uses of roads constructed by RMEF hereunder only if:

- (a) The Forest Service makes appropriate arrangements to relieve RMEF of related maintenance costs commensurate with such other uses and
- (b) Such other uses will not materially interfere with RMEF's Operations.

Where RMEF reconstructs a road having established use, the use during reconstruction and thereafter by RMEF shall be such as to reasonably accommodate such established use. RMEF shall have the right to use such reconstructed road without material additional interference from other users.

F.10-c. CLOSURE TO USE BY OTHERS.

- A. During the life of this Agreement, RMEF shall install temporary barricades at locations designated "Temporary Activity Barricade" on Agreement Area Map and shown below. Temporary barricades shall be installed so that they may be readily opened by RMEF or the

79.9 – Exhibit 01--Continued

Forest Service for access to the Agreement Area in case of fire or other emergency. Official vehicle traffic shall also include administrative traffic by the Forest Service and other landowners for the administration of their lands. RMEF shall provide and post approved signs as authorized by the Forest Service. Installation of Temporary Activity Barricades shall follow closure details attached hereto and made a part hereof.

During the period October 15 to December 1 when RMEF's operations are in areas otherwise closed to motorized vehicles, RMEF shall not be permitted to hunt, transport hunters, discharge firearms or transport big game animals with vehicles within the closed areas.

TEMPORARY ACTIVITY BARRICADES

Road Number	Location	Closure Method
73602	At intersection with 5764	Gate or Sign

- B. Closure of Roads at End of RMEF's Use. Unless otherwise agreed in writing between RMEF and the Forest Service, upon completion of use, RMEF shall effectively close to public use the following roads designated "To Be Closed" on Agreement Area Map and listed below. Existing locking closure devices shall be closed and locked as directed by the Forest Service. As an element of final road maintenance and environmental or resource protection, the designated closure shall be accomplished by using the methods required for each road as described below:

Closure Location(s)				
Road Number	Location	Closure Method	Furnished By	In Place
73602	At intersection with 5764	Berm	Partner	X

79.9 – Exhibit 01--Continued

F.11– Scaling Instructions and Specifications.

Name and Date of Governing Instructions:	FSH 2409.11a, National Forest Cubic Log Scaling Handbook, as amended and supplemented. Governing instructions for products contained in F.2.
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Scaling Specifications					
Species	Product	Maximum Scaling Length (feet)	Trim Allowance		
			Diameter Range (inches)	Length Range (feet)	Trim Allowance (inches)
All	Non-saw	Weight scale	All	20	6.0

F.12– Scaling Services

Species	Product	Unit of Measure	Site and Geographic Location	Method	Standard Estimated Cost per Unit \$
All	Non-saw	Tons	Approved locations with State Certified weight scales	100% weight Scale	N/A

F.13 - Advance Deposits. The Partner agrees to make advanced deposits in advance of cutting. These deposits may be in the form of cash, acceptable payment bond, earned stewardship credit or any combination thereof. Advanced deposits will be in such amounts as to maintain an unobligated balance sufficient enough to cover the value of timber to be cut. The Forest Service and the Partner will agree on a systematic approach to provide sufficient advanced deposits.

If the credit balance in the IRSA is less than the amount due for timber, the Forest Service will suspend all or any part of the Partner’s operations until payment or acceptable payment guarantee is received.

79.9 – Exhibit 01--Continued

F.14- Title Passage.

Scaled: All right, title, and interest in and to any included timber shall remain with the Forest Service until it has been cut, scaled, and removed from the Stewardship Project Area or other authorized cutting area, and paid for, at which time title shall then vest with the Partner. Timber cut under cash deposit or acceptable payment guarantee shall be considered to have been paid for. Title to any included timber that has been cut, scaled and paid for, but not removed from the Stewardship Project Area or other authorized cutting area by the Partner on or prior to the termination date, shall remain with the Forest Service.

Tree Measurement. All right, title, and interest in and to any included timber shall remain with the Forest Service until it has been measured, paid for, and removed from the Stewardship Project Area or other authorized cutting area, at which time title shall then vest with the Partner. Timber cut under cash deposit or acceptable payment guarantee shall be considered to have been paid for. Title to any included timber that has been measured and paid for, but not removed from the Stewardship Project Area or other authorized cutting area by the Partner on or prior to the termination date, shall remain with the Forest Service.

F.15– Liability.

Liability for Loss. If Included Timber is destroyed or damaged by an unexpected event that significantly changes the nature of Included Timber, such as fire, wind, flood, insects, disease, or similar cause, the party holding title shall bear the timber value loss resulting from such destruction or damage; except that such losses after removal of timber from the Stewardship Project Area, but before scaling, shall be borne by the Partner at current SPA Rates and Required Deposits. Deterioration or loss of value of salvage timber is not an unexpected event.

In the event Included Timber to which the Forest Service holds title is destroyed, the Partner will not be obligated to remove and pay for such timber. In the event Included Timber to which the Forest Service holds title is damaged, the Forest Service shall make an appraisal to determine for each species the difference between the appraised unit value of Included Timber immediately prior to the value loss and the appraised unit value of timber after the loss. Current SPA Rates in effect at the time of the value loss shall be adjusted by differences to become the re-determined rates. There shall be no obligation for the Forest Service to supply, or for the Partner to accept and pay for, other timber in lieu of that destroyed or damaged. This Subsection shall not be construed to relieve either party of liability for negligence.

79.9 – Exhibit 01--Continued

F.16- Use of Timber.

- (a) This Agreement is subject to the Forest Resources Conservation and Shortage Relief Act of 1990, as amended (16 USC 620, et seq.).
- (b) Except for 1/_NONE_____ determined pursuant to public hearing to be surplus, unprocessed Included Timber shall not be exported from the United States nor used in direct or indirect substitution for unprocessed timber exported from private lands by RMEF or any person as defined in the Act (16 USC 620e).
- (c) Timber in the following form will be considered unprocessed:
 - (i) Trees or portions of trees or other roundwood not processed to standards and specifications suitable for end product use;
 - (ii) Lumber, construction timbers, or cants intended for remanufacturing not meeting standards defined in the Act (16 USC 620e); and (iii) Aspen or other pulpwood bolts exceeding 100 inches in length.
- (d) Unless otherwise agreed in writing, unprocessed Included Timber shall be delivered to a domestic processing facility and shall not be mixed with logs intended for export.
- (e) Prior to award, during the life of this Agreement, and for a period of 3 years from Termination Date, RMEF shall furnish to Forest Service, upon request, records showing the volume and geographic origin of unprocessed timber from private lands exported or sold for export by RMEF or affiliates.
- (f) Prior to delivering unprocessed Included Timber to another party, RMEF shall require each buyer, exchangee, or recipient to execute an acceptable agreement that will:
 - (i) Identify the Federal origin of the timber;
 - (ii) Specify domestic processing for the timber involved;
 - (iii) Require the execution of such agreements between the parties to any subsequent transactions involving the timber;
 - (iv) Require that all hammer brands and/or yellow paint must remain on logs until they are either legally exported or domestically processed, whichever is applicable; and
 - (v) Otherwise comply with the requirements of the Act (16 USC 620d).
- (g) No later than 10 days following the execution of any such agreement between RMEF and another party, RMEF shall furnish to Forest Service a copy of each such agreement. RMEF shall retain, for 3 years from Termination Date, the records of all sales, exchanges, or dispositions of all Included Timber.
- (h) Upon request, all records dealing with origin and disposition of Included Timber shall be made available to Forest Service.
- (i) For breach of this Subsection, Forest Service may terminate this Agreement and take such other action as may be provided by statute or regulation, including the imposition of penalties. When terminated by Forest Service under this Subsection, Forest Service will not be liable for any Claim submitted by RMEF relating to the termination.

79.9 – Exhibit 01--Continued

APPENDIX H: GUIDELINES FOR OPERATIONS

The following Guidelines for Operations apply to activities under this SPA, when relevant to the project. These guidelines are intended to clarify the expectations of the parties related to these specific areas of operations.

1. **Stewardship Project Area Map (Map).** This is the boundary of the Stewardship Project Area as shown in Appendix C and designated on the ground by the Forest Service to meet the anticipated needs of the parties. The following are identified on the Map:
 - a. Identified patented claims.
 - b. Boundaries of all harvest and stewardship treatment units.
 - c. Diameter limits for overstory and understory removal units.
 - d. Areas where leave trees are marked to be left uncut.
 - e. Specified roads.
 - f. Sources of base course, surface rock, and rock riprap listed in the Schedule of Items;
 - g. Roads where log hauling or use is prohibited or restricted.
 - h. Roads and trails to be kept open.
 - i. Improvements to be protected.
 - j. Locations of known wildlife or plant habitat and cave resources to be protected.
 - k. Locations of areas known to be infested with specific invasive species of concern.
 - l. Maximum stump heights when more than one height is listed by areas.
 - m. Skidding or yarding methods.
 - n. Streamcourses to be protected.
 - o. Locations of meadows requiring protection.
 - p. Locations of wetlands requiring protection.
 - q. Locations of temporary roads to be kept open.
 - r. Payment units, if required
2. **Use of Roads by the Partner.** The Partner is authorized to use existing National Forest system roads and specified roads. The Parties will determine that such use will not cause damage to the roads or National Forest resources.
3. **Plan of Operations for Roads.** Annually, prior to start of operations, the Partner will prepare a supplement to the Technical Proposal that shall include a schedule of proposed maintenance and construction progress and a description of planned measures to be taken to provide erosion control for work in progress, including special measures to be taken on any segments of construction not substantially completed prior to periods of seasonal

79.9 – Exhibit 01--Continued

precipitation or runoff. The Partner shall submit a revised schedule when they propose a significant deviation from the progress schedule. Prior to beginning construction on any portion of specified roads identified as sensitive on plans, the parties shall agree on the proposed method of construction and maintenance.

4. **Protection of Residual Trees.** The Partner's operations shall not unnecessarily damage young growth or other trees to be reserved.
5. **Safety.** The Partner's operations shall facilitate the Forest Service's safe and practical inspection of the Partner's operations and conduct of other official duties on the Stewardship Project Area. The Partner has all responsibility for compliance with safety requirements for the Partner's employees.

When operations are in progress adjacent or on Forest Service controlled roads and trails open to public travel, the Partner shall furnish, install, and maintain all temporary traffic controls that provide the user with adequate warning of hazardous or potentially hazardous conditions associated with operations occurring in the area. The parties shall agree to a specific traffic control plan prior to commencement of work. Devices shall be appropriate to current conditions and shall be covered or removed when not needed.

During periods of general recreation activity within Stewardship Project Area or vicinity, the Forest Service may restrict road construction, timber cutting, yarding, and other harvesting operations to days other than Saturdays, Sundays, and holidays.

LOGGING AND MAINTENANCE OPERATIONS SIGNING STANDARDS

All signs must be manufactured & installed as specified in the FHWA "**Manual on Uniform Traffic Control Devices**" (MUTCD) and Forest Service publication "**Standards for Forest Service Signs & Posters**"(EM 7100-15).

SIGN STANDARDS

SHAPE & COLOR: Generally, signs for logging and maintenance operations are either diamond-shaped or rectangular. All signs are **reflective orange background with black legend and border** unless shown otherwise. Handpainted, homemade signs are not legal. Fluorescent paint is not reflectorized.

SUBSTRATE: Sign substrate material may be High Density Overlay (HDO) Plywood, Aluminum, Fiberglass Reinforced Plastic, Corrugated Plastic or Roll-up Fabrics.

79.9 – Exhibit 01--Continued

SIGN SIZE: Sign size is a factor of speed and MUTCD and Forest Service standards. Where conditions of speed, volume, or special hazard require greater visibility or emphasis, larger signs should be used. Minimum sizes for the most common signs can be found in Figure 4. Refer to the EM-7100-15 for additional sign sizes.

LEGEND: All lettering shall be Series "C" alphabet, conforming to Standard Alphabets for Highway Signs. Letter size is also a function of speed - use letter size and word messages as specified in MUTCD and EM-7100-15.

SIGN PLACEMENT

Signs will be installed in locations as agreed to in the traffic control plan. All signs will be removed, covered, or folded when operations are not in progress or the sign message is not applicable. Signs should generally be located on the right-hand side of the roadway. When special emphasis is needed, signs may be placed on both the left and right sides of the road. Sign message shall be clearly visible to road users, mounted on posts or portable sign stands.

LATERAL CLEARANCE

From the edge of the road - 2 foot minimum, where slope limits to less than 6 feet. 6-12 foot preferred.

HEIGHT

Minimum of 7 feet, measured from the bottom of the sign to the near edge of the travelway. The height to the bottom of a supplemental sign mounted below the primary sign will be 6 feet.

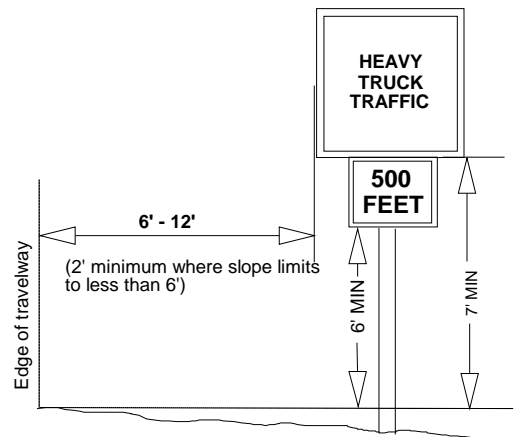


Figure 1: Sign Placement

Dimensions

PLACEMENT DISTANCE

Signs must be located 100-500 feet prior to the activity, (both ends if a through road) and maintained at that distance. This distance is based on speed. Refer to Figure 2 , Table II-1, MUTCD, a portion of which is reproduced here, to determine correct placement distance.

Posted or 85 percentile speed MPH	Deceleration to listed advisory speed MPH				
	10	20	30	40	50
20	NA				
25	100				
30	150	100			
35	200	175			
40	275	250	175		
45	350	300	250		
50	425	400	325	225	
55	500	475	400	300	
60	575	550	500	400	300
65	650	625	575	500	375

Figure 2: A Portion of MUTCD TABLE II-1

79.9 – Exhibit 01--Continued

SIGN SUPPORTS

POSTS: Signs must be mounted on separate posts. Supplemental signs such as Speed Advisory plates may be mounted on the same post as the primary sign. **Do not mount signs on trees or other signs.** Posts may be wood, metal, carsonite or similar material. Where sign supports cannot be sufficiently offset from the road edge, supports will meet breakaway standards. Single wood posts with less than 24 square inches do not require breakaway design.

TEMPORARY/PORTABLE SUPPORTS: Portable supports may be used for short-term, short-duration, and mobile conditions. MUTCD defines this time period as one work shift, 12 hours or less. All portable supports must meet MUTCD standards, including breakaway. These must be a minimum of 1 foot above the road surface or more if visibility requires it.

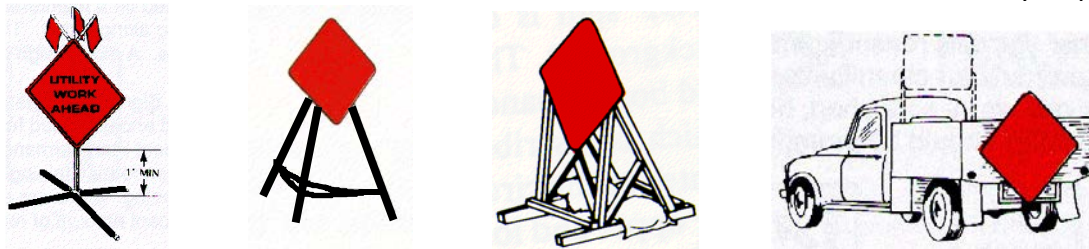


Figure 3: Examples of Temporary/Portable Supports

SIGNS

The following signs meet the intent of the Safety standard. ***This is not a complete listing of signs that may be needed.***



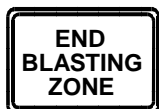
FG20-1-48* FG20-2-48



FG20-3-42*



FG20-3a-42



FW22-3-30

79.9 – Exhibit 01--Continued



FW20-1-30*



W21-3-30*



FW21-4a-30



FW11-7-24



W22-1-36*



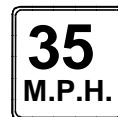
FW8-6-24



FW11-9a-24



W7-3a-24*



W13-1-18**



W20-7aP-24*

* Specify Distance

** Specify Speed



BM-L-O



BM-R-O

Barricade Markers (See MUTCD for length and stripe size)

6. **Safety (Timber Hauling).** The Partner shall secure all products transported by truck with at least two chain or cable wrappers over the load, such wrappers being securely fastened to effectively contain every bolt or log in at least two places.
7. **Accident and Injury Notification.** The Partner shall notify the Forest Service of any lost time personal injury accident or any accident or vandalism resulting in personal property damage over \$400 in value that occurs as a result of or is associated with the Partner's Operations.

The Partner shall notify the Forest Service within 8 hours of any personal injury accident. For vandalism and personal property accidents, the Partner shall notify the Forest Service at the same time notification is given to the state and local law enforcement authorities.

The Partner shall take all reasonable measures after an accident or vandalism event to preserve the scene of the incident and provide information to facilitate a Forest Service investigation.

79.9 – Exhibit 01--Continued

8. **Sanitation and Servicing.** The Partner shall take all reasonable precautions to prevent pollution of air, soil, and water by the Partner's operations. Precautions shall include operation of any facilities for employees that are established on the Stewardship Project Area in a sanitary manner. The parties shall agree to the cleanup and restoration of a polluted site. The Partner shall maintain all equipment operating on Stewardship Project Area in good repair and free of abnormal leakage of lubricants, fuel, coolants, and hydraulic fluid. The Partner shall not service tractors, trucks, or other equipment on National Forest lands where servicing is likely to result in pollution to soil or water. The Partner shall furnish oil-absorbing mats for use under all stationary equipment or equipment being serviced to prevent leaking or spilled petroleum-based products from contaminating soil and water resources. The Partner shall remove from National Forest lands all contaminated soil, vegetation, debris, vehicle oil filters (drained of free-flowing oil), batteries, oily rags, and waste oil resulting from use, servicing, repair, or abandonment of equipment.
9. **Prevention of Oil Spills.** If the Partner maintains storage facilities for oil or oil products on the Stewardship Project Area, the Partner shall take appropriate preventive measures to ensure that any spill of such oil or oil products does not enter any stream or other waters of the United States or any of the individual States. If the total oil or oil products storage exceeds 1,320 gallons in containers of 55 gallons or greater, the Partner shall prepare a Spill Prevention Control and Countermeasures Plan. Such plan shall meet applicable EPA requirements (40 CFR 112), including certification by a registered professional engineer. The Partner shall notify the Forest Service and appropriate agencies of all reportable (40 CFR 110) spills of oil or oil products on or in the vicinity of the Stewardship Project Area that are caused by the Partner's employees, agents, contractors or their employees or agents, directly or indirectly, as a result of the Partner's operations. The Partner will take whatever initial action may be safely accomplished to contain all spills.
10. **Hazardous Substances.** The Partner shall notify the National Response Center and the Forest Service principal contact of all releases of reportable quantities of hazardous substances on or in the vicinity of the Stewardship Project Area that are caused by the Partner's employees, agents, subcontractors or their employees or agents, directly or indirectly, as a result of the Partner's operations, in accordance with 40 CFR 302.
11. **Washing Equipment.** In order to prevent the spread of noxious weeds into the Stewardship Project Area, the Partner shall be required to clean all off-road logging and construction equipment **prior** to entry on to the Stewardship Project Area. This cleaning shall remove all soil, plant parts, seeds, vegetative matter, or other debris that could contain or hold seeds. Only logging and construction equipment so cleaned and inspected by the Partner will be allowed to operate within the Stewardship Project Area. All subsequent move-ins of equipment to the Stewardship Project Area shall be treated in the same manner as the

79.9 – Exhibit 01--Continued

initial move in. “Off-road equipment” includes all logging and construction machinery, except for log trucks, chip vans, service vehicles, water trucks, pickup trucks, cars, and similar vehicles.

The Partner shall employ whatever cleaning methods are necessary to ensure that off-road equipment is free of noxious weeds. Equipment shall be considered free of soil, seed, and other such debris when a visual inspection does not disclose such material. Disassembly of equipment components or specialized inspection tools is not required.

As agreed upon, the Partner shall inspect equipment at cleaning location, and provide documentation of inspection to the Forest Service.

New infestations of noxious weeds, of concern to the Forest Service and identified by either the Partner or the Forest Service, on the Stewardship Project Area or on the haul route, shall be promptly reported to the other party. The Partner and the Forest Service shall agree on treatment methods to reduce or stop the spread of noxious weeds when new infestations are found. A current list of noxious weeds of concern to Forest Service is available at each Forest Service office.

12. **Conduct of Logging.** Unless otherwise specifically provided herein, the Partner shall fell trees designated for cutting and shall remove the portions that meet Utilization Standards, prior to acceptance of work for completion of logging and stewardship projects. The Forest Service may make exceptions for occasional trees inadvertently not cut or trees or pieces not removed for good reason, including possible damage to forest resources or gross economic impracticability at the time of removal of other timber.
13. **Felling and Bucking.** Felling shall be done to minimize breakage of included timber and damage to residual timber. Unless agreed otherwise, felling shall be done by saws or shears. Bucking shall be done to permit removal of all minimum pieces. The Partner may buck out cull material when necessary to produce pieces meeting utilization standards. Such bucked out material shall contain a minimum amount of sound wood, not in excess of the net scale in percentage of gross scale, or based on the merchantability factor. If necessary to assess extent of defect, the Partner shall make sample saw cuts or wedges.
14. **Felling in Clearings.** Insofar as ground conditions, tree lean, and shape of clearings permit, trees shall be felled so that their tops do not extend outside clearcutting units, construction clearings, and areas of regeneration cutting.
15. **Stump Heights.** Stumps shall not exceed, on the side adjacent to the highest ground, the maximum heights set forth in Appendix E except that occasional stumps of greater heights are acceptable when the Partner determines that they are necessary for safe and efficient conduct of logging. Unless otherwise agreed, the Partner shall re-cut high stumps so they will not exceed heights specified in F-3 and shall dispose of severed portions in the same

79.9 – Exhibit 01--Continued

manner as other logging debris. The stump heights shown in Appendix F were selected with the objective of maximum reasonable utilization of the timber, unless the Map shows special areas where stump heights are lower for aesthetic, land treatment, or silvicultural reasons.

16. **Bucking Lengths.** Trees shall be bucked in various lengths to obtain the greatest utilization of material meeting utilization standards.
17. **Limbing.** The Partner shall cut exposed limbs from products prior to skidding, as necessary to minimize damage to the residual stand during skidding. The Partner may leave uncut those limbs that cannot be cut with reasonable safety.
18. **Skidding and Yarding.** Methods of skidding or yarding specified for particular areas, if any, are indicated on the Map. Outside clearcutting units and construction clearings, insofar as ground conditions permit, products shall not be skidded against reserve trees or groups of reproduction and tractors shall be equipped with a winch to facilitate skidding.
19. **Rigging.** Insofar as practicable, needed rigging shall be slung on stumps or trees designated for cutting.
20. **Landings and Skid Trails.** Location of all landings, tractor roads, and skid trails shall be agreed upon prior to their construction. The cleared or excavated size of landings shall not exceed that needed for efficient skidding and loading operations.
21. **Arches and Dozer Blades.** Skidding tractors equipped with pull-type arches or dozer blades wider than tractor width or C-frame width, whichever is greater, shall not be used in residual timber outside clearcutting units and other authorized clearings, except on constructed tractor roads or landings, unless there is written agreement that residual timber will not be damaged materially by such use.
22. **Protection of Streamcourses.** The Partner's Operations shall be conducted to prevent debris from entering streamcourses, except as may be authorized under paragraph (d). In event the Partner causes debris to enter streamcourses in amounts that may adversely affect the natural flow of the stream, water quality, or fishery resource, the Partner shall remove such debris as soon as practicable, but not to exceed 2 days, and in an agreed manner that will cause the least disturbance to streamcourses.
 - a. Culverts or bridges shall be required on Temporary Roads at all points where it is necessary to cross streamcourses. Such facilities shall be of sufficient size and design and installed in a manner to provide unobstructed flow of water and to minimize damage to streamcourses. Trees or products shall not be otherwise hauled or yarded across streamcourses unless fully suspended.

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- b. Wheeled or track-laying equipment shall not be operated in streamcourses, except at crossings agreed to by the Partner and the Forest Service or as essential to construction or removal of culverts and bridges.
- c. Flow in streamcourses may be temporarily diverted only if such diversion is necessary for the Partner's planned construction and Forest Service gives written authorization. Such flow shall be restored to the natural course as soon as practicable and, in any event, prior to a major storm runoff period or runoff season.

23. Erosion Prevention and Control. The Partner's operations shall be conducted reasonably to minimize soil erosion. Equipment shall not be operated when ground conditions are such that excessive damage will result. The Partner shall adjust the kinds and intensity of erosion control work done, to ground conditions and weather conditions and the need for controlling runoff. Erosion control work shall be kept current immediately preceding expected seasonal periods of precipitation or runoff.

Prior to periods of accelerated water runoff, especially during the spring runoff and periods of heavy rainfall, the Partner shall inspect and open culverts and drainage structures, construct special cross ditches for road runoff, and take other reasonable measures needed to prevent soil erosion and siltation of streams.

Unless otherwise agreed in writing, the Partner shall complete erosion prevention and control work, including streamcourse protection, within 15 calendar days after completion of skidding and/or yarding operations for each landing.

Designation of on the ground work shall be done as promptly as feasible unless it is agreed that the location of such work can be established without marking on the ground.

During periods of accelerated water runoff, especially during the spring runoff and periods of heavy rainfall, the Partner shall inspect and open culverts and drainage structures, construct special cross ditches for road runoff, and take other reasonable measures needed to prevent soil erosion and siltation of streams.

When operations are active, erosion control work will be kept current and will be completed as soon as practicable.

- 24. Protection of Improvements.** So far as practicable, the Partner shall protect specified roads and other improvements (such as roads, trails, telephone lines, ditches, and fences):
- a. Existing in the operating area,
 - b. Determined to have a continuing need or use, and
 - c. Designated on the Map.

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The Partner shall keep roads and trails needed for fire protection or other purposes and designated on the Map reasonably free of equipment and products, slash, and debris resulting from the Partner's operations. The Partner shall make timely restoration of any such improvements damaged by the Partner's operations and, when necessary because of such operations, shall move such improvements.

25. **Meadow Protection.** Reasonable care shall be taken to avoid damage to the cover, soil, and water in meadows shown on the Map. Vehicular or skidding equipment shall not be used on meadows, except where roads, landings, and tractor roads are approved. Unless otherwise agreed, trees felled into meadows shall be removed by endlining. Resulting logging slash shall be removed where necessary to protect cover, soil, and water.
26. **Wetlands Protection.** Wetlands requiring protection under Executive Order 11990 are shown on the Map. Vehicular or skidding equipment shall not be used in such wetlands, except where roads, landings, and tractor roads are approved.
27. **Temporary Roads.** As necessary to attain stabilization of roadbed and fill slopes of temporary roads, the Partner shall employ such measures as outsloping, drainage dips, and water-spreading ditches. After a temporary road has served the Partner's purpose, the Partner shall give notice to the Forest Service and shall remove bridges and culverts, eliminate ditches, outslope roadbed, remove ruts and berms, effectively block the road to normal vehicular traffic where feasible under existing terrain conditions, and build cross ditches and water bars, as staked or otherwise agreed to. When bridges and culverts are removed, associated fills shall also be removed to the extent necessary to permit normal maximum flow of water.
28. **Temporary Roads to Remain Open.** All bridges and culverts shall remain in place and ditches shall not be eliminated on Temporary Roads, shown as "Remained Open on the Map. All drainage structures shall be left in functional condition.
29. **Landings.** After landings have served the Partner's purpose, the Partner shall ditch and slope them to permit water to drain or spread. Unless agreed to otherwise, cut and fill banks around landings shall be sloped to remove overhangs and otherwise minimize erosion.
30. **Skid Trails and Fire Lines.** The Partner shall construct cross ditches and water-spreading ditches on tractor roads and skid trails, where needed to prevent erosion. By agreement, the Partner may use other comparable erosion control measures, such as backblading skid trails, in lieu of cross ditching.
31. **Current Operating Areas.** Where logging, road construction, or other stewardship project work is in progress but not completed, unless agreed to otherwise, the Partner shall, before operations cease annually, remove all temporary log culverts and construct temporary cross drains, drainage ditches, dips, berms, culverts, or other facilities needed to control erosion.

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Such protection shall be provided, for all disturbed, unprotected ground that is not to be disturbed further prior to end of operations each year, including roads and associated fills, tractor roads, skid trails, and fire lines. When weather permits operations, the Partner shall keep such work on any additional disturbed areas as up to date as practicable.

32. Erosion Control Structure Maintenance. During the period of this SPA, the Partner shall provide maintenance of soil erosion control structures constructed by the Partner until they become stabilized, but not for more than one year after their construction.

33. Slash Disposal. The Partner's timing of product removal and preparatory work shall not unnecessarily delay slash disposal. Specific slash disposal measures to be employed by the Partner are stated in Appendix E.

34. Scaling. Scaling includes:

- a. Various volume determination methods, such as log rule, sampling, measuring, linear measuring, counting, weighing, or another method or combination of methods;
- b. Various sites, such as truck Scaling stations, rollways, weighing stations, woods landings, water Scaling stations, or other sites.
- c. Various geographic locations.

35. Scaling Services. Scaling services shall be performed by Forest Service personnel or parties under contract to the Forest Service, except that weighing services may be performed by personnel or parties approved by the Forest Service. Scaling shall be provided in accordance with the instructions and specifications in Appendix F. Scalpers shall be currently certified to perform accurate scaling services. The scaling services provided shall be selected exclusively by the Forest Service. Scaling services may be continuous, intermittent, or extended.

- a. Continuous scaling services is scaling at one site five (5) 8-hour shifts a week, exclusive of Sundays and Federal holidays.
- b. Intermittent scaling services are non-continuous scaling services.
- c. Extended scaling services are scaling services exceeding continuous scaling services and may include Sundays and designated Federal holidays.

As mutually agreed to by the parties, the Forest Service may provide other services, such as but not limited to grading, tagging, or marking of Scaled logs.

36. Scaling Location. The Forest Service shall provide scaling services at the scaling site(s) shown in Appendix G. The Scaling site(s) shown in Appendix F normally will be a non-exclusive site where more than one National Forest the Partner may be served. The Partner may request, in writing, an alternate scaling site, such as at a private mill yard, private truck

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ramp, or a privately operated log transfer facility. The Forest Service may approve an alternate scaling site, when the Forest Service determines that scaling conditions at an alternate site are acceptable. Such conditions shall include at a minimum:

- a. Scaler safety and comfort,
- b. Product accountability and security,
- c. Facilities and practices conducive to accurate and independent scaling, and
- d. The ability to provide for remote check scaling.

Upon approval of an alternate scaling site, the Forest Service and the Partner shall enter into a written memorandum of agreement governing scaling at that alternate location. The Partner agrees that Forest Service personnel or persons under contract with the Forest Service shall perform scaling services at an alternative scaling site. In no instance shall the Partner perform scaling services.

37. Scaling Adjustments. The Forest Service shall check the accuracy of the scaling performed on National Forest logs. Scaling will be satisfactory if performed within the accuracy standards in governing instructions identified in Appendix F. In the event the Forest Service check scale(s) shows a variance in net scale in excess of the allowable variance, an adjustment to volume reported scaled may be made by the Forest Service. Such adjustment will be based on the difference between the Forest Service check scale(s) and the original scale for SPA volume Scaled within the adjustment period. The volume to which this difference will be applied will be:

- a. One-half of the volume scaled between the last satisfactory check scale and the first unsatisfactory check scale or, if a period of 120 days or more occurs without scaling National Forest timber for stumpage, the adjustment will be applied to 100 percent of the volume scaled after this period and
- b. 100 percent of the volume scaled between unsatisfactory check scales and
- c. One-half of the volume scaled between the last unsatisfactory check scale and the next satisfactory check scale, or if no satisfactory check scale is completed and a period of 120 days or more occurs without scaling of National Forest timber for stumpage, the adjustment will be applied to 100 percent of the volume scaled since the last unsatisfactory check scale.

Adjustments may increase or decrease the original scaled volume. Adjustments will be applied to Integrated Resource Account to correct charges for Included Timber, plus deposits, scaled during the adjustment period.

38. Weighing Services. Weighing services for stumpage payment purposes may be provided by either public or privately owned and operated weighing facilities. A “Weighing Services Agreement,” approved by the Forest Supervisor, must be executed at each weighing facility providing weighing services.

79.9 – Exhibit 01--Continued

Scales used to weigh National Forest products for payment purposes must be a currently certified scale in accordance with State law and be capable of weighing the entire load of logs in a single operation. The weighing of less than the entire load or weighing two loads at once is prohibited. Unless otherwise agreed, the minimum sized weighing facility shall be a 60-ton capacity scale with a 10 foot by 70 foot platform or larger. The weighmaster must work in a position where it is possible to verify that the truck wheels are on or off the scales. Weighing facilities shall meet the following minimum requirements:

- a. Be an electronic design,
- b. Use electronic load cells or have a fully enclosed and sealed weigh-beam,
- c. Have digital weight meters sealed with a seal approved by the State,
- d. Have a zero interlocking device on the printer,
- e. Have an automatic zero-setting mechanism,
- f. Have an automatic motion-detecting device,
- g. Be shielded against radio or electromagnetic interference, and
- h. Have a date and time stamp and gross and tare weights that print electronically with each weighing. The Forest Service may waive electronic printing for public or third party weighing facilities. The Partner shall bear all charges or fees for weighing services.

39. **Presentation for Scaling.** The Partner shall present products so that they may be scaled in an economical and safe manner.

40. **Accountability.** When scaling is performed away from Stewardship Project Area, products shall be accounted for in accordance with Forest Service written instructions, as follows:

- a. The Partner shall plainly mark or otherwise identify products prior to hauling;
- b. Forest Service shall issue removal receipts to the Partner;
- c. The Partner shall assign a competent individual at the landing to complete removal receipts and attach them to each load of products removed from Stewardship Project Area;
- d. Removal receipts shall be returned to the Forest Service at periodic intervals;
- e. When products are in transit, the truck driver shall possess or display removal receipt and show it upon request as evidence of authority to move products;
- f. The scaler's portion of the removal receipt shall be surrendered at point of scaling, the unloading point, or as requested by a Forest Service; and
- g. The Partner shall notify the Forest Service of lost or off-loaded logs and their location within 12 hours of such loss. The Partner shall not place products in storage for deferred Scaling until an accountability system has been agreed to in writing for a stated period.

41. **Route of Haul.** As part of the annual Operating Schedule, the Partner shall furnish a map showing the route of haul over which unscaled products will be transported from the Stewardship Project Area to the approved scaling location. Such route of haul shall be the shortest, most economical haul route available between the points.

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Upon advance written agreement, other routes may be approved. All unscaled products removed from Stewardship Project Area shall be transported over the designated routes of haul. The Partner shall notify Forest Service when a load of products, after leaving Stewardship Project Area, will be delayed for more than 12 hours in reaching scaling location.

The Partner shall require truck drivers to stop, if requested by Forest Service, for the following reasons:

- a. For accountability checks when products are in transit from Stewardship Project Area to the designated Scaling location or
- b. For a remote check scale when products are in transit after being truck Scaled at the designated scaling location.

The Partner and Forest Service shall agree to locations for accountability checks and remote check scales in advance of haul. Such locations shall be established only in areas where it is safe to stop trucks. The Forest Service shall notify the Partner of the methods to be used to alert truck drivers of an impending stop.

42. **Product Identification.** Before removal from the Stewardship Project Area, unless the Forest Service determines that circumstances warrant a written waiver or adjustment, the Partner shall:
- a. Hammer brand all products that are eight (8) feet or more in length and one-third (1/3) or more sound, on each end that is seven (7) inches or more in diameter.
 - b. West of the 100th meridian, paint with a spot of highway-yellow paint all domestic processing products that are eight (8) feet or more in length and one-third (1/3) or more sound, on each end that is seven (7) inches or more in diameter. Each paint spot must be not less than three (3) square inches in size.

The Forest Service shall assign brands and, if the Stewardship Project Area is within a State that maintains a log brand register, brands shall be registered with the State. The Partner shall use assigned brand exclusively on logs under this SPA until Forest Service releases the brand. The Partner will furnish and apply highway-yellow paint of a lasting quality (oil-base or equivalent).

All hammer brands and/or highway-yellow paint must remain on the logs until they are domestically processed. The Partner shall replace identifying marks if they are lost, removed, or become unreadable. The Partner may remanufacture products into different log lengths. Except for logs remanufactured as part of the mill infeed process immediately before processing, remanufactured products must be rebranded with the assigned SPA brand and repainted with highway-yellow paint, unless otherwise agreed to in writing by the Forest Service Representative. For such remanufactured products, Forest Service may

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approve use of a brand to be used exclusively as a catch brand, in lieu of the assigned SPA brand.

43. **Scaling Lost Products.** The volume of lost products shall be determined by the best methods currently available, using data from the records for the period in which the loss occurred or the most applicable period if loss should occur substantially after cutting. In the absence of specific information indicating size or species of lost products, species distribution and volume for entire truckloads shall be assumed to be the same as the average volume scaled per truck during the report period, and for individual products it shall be assumed that the volume and species were the lowest volume of the highest priced species scaled during the report period.
44. **Scaling Lost Sample Loads.** If scaling is being done by sampling loads of logs, the Partner shall present such sample loads for scaling by the Forest Service. If loads of logs selected to be sample scaled are placed in the decks before they are scaled, they will be considered as lost sample loads. It will be difficult, if not impossible, to determine the volume and species contained in such loads for payment purposes. Therefore, lost sample loads will be deemed to have a scale volume and species composition equal to that of the highest value load scaled during the sampling period, as established by the Forest Service. If no sample loads were scaled during the period, the scale data for the high valued load will be taken from the most current preceding sampling period with scale. Sample loads lost as a result of Forest Service actions shall be treated as non-scaled loads.
45. **Scale Reports.** The Forest Service shall provide the Partner a copy of Forest Service scaler's record, if requested in writing.
46. **Fire Precautions and Control**
- a. **Plans.** Prior to initiating the Partner's operations during Fire Precautionary Period, the Partner shall file with the Forest Service a Fire Prevention and Control Plan providing for the prevention and control of fires on the Stewardship Project Area and other areas of the Partner's Operations. Such plan shall include a detailed list of personnel and equipment at the Partner's disposal for implementing the plan. This requirement may be met by preparing a single plan for more than one SPA.
 - b. **Fire Precautions.** Specific fire precautionary measures listed in this Appendix shall be applicable during the Partner's Operations in "Fire Precautionary Period" described. The dates of Fire Precautionary Period may be changed by agreement, if justified by unusual weather or other conditions. Required tools and equipment shall be kept in serviceable condition and immediately available for fire fighting at all times during the Partner's operations in Fire Precautionary Period.

79.9 – Exhibit 01--Continued

- c. **Substitute Precautions.** The Forest Service may authorize substitute measures or equipment, or waive specific requirements by written notice, if substitute measures or equipment will afford equal protection or some of the required measures and equipment are unnecessary.
- d. **Emergency Precautions.** The Forest Service may require shutting down equipment on portions of the Partner's Operations, as specified by the emergency fire precautions schedule. Under such conditions, after the Partner ceases active operations, the Partner shall release for hire by the Forest Service, if needed, the Partner's shutdown equipment for fire standby on the Stewardship Project Area or other areas of the Partner's Operations. The Partner may also make their personnel for fire standby or fire patrol, when such personnel and equipment are not needed by the Partner for other fire fighting or protection from fire. Equipment shall be paid for at fire fighting equipment rates common in the area or at prior agreed rates and, if the Partner requests, shall be operated only by personnel approved by the Partner. Personnel so hired shall be subject to direction and control by the Forest Service and shall be paid by the Forest Service at fire fighting rates common in the area or at prior agreed rates.
- e. **Fire Precautionary Period and Fire Precautions.** Specific fire precautionary measures are set forth below. Upon request of the Forest Service, the Partner shall permit and provide an individual to assist in periodic testing and inspection of required fire equipment. The Partner shall promptly remedy deficiencies found through such inspecting and testing.
- (1) The following requirements shall apply during the period May 1- September 30 and during other such periods as specified by Forest Service.
- (2) ***Regional fire precautionary requirements***
- (a) Fire Extinguishers and Tools Required with Equipment. Each unit of powered equipment used in connection with this agreement shall be equipped with serviceable tools and fire extinguishers acceptable to Forest Service as follows:
- (i) STATIONARY EQUIPMENT. Examples include yarders, log loaders, Hahn Harvester, stroke delimbers, roadside/landing based processors, whole tree chippers, rock crusher, asphalt plant, or other equipment working at fixed locations such as a landing or rock crushing site.
- One - Fire extinguisher, dry chemical type of not less than 2.5-pound capacity with 4 B.C. or higher rating.
 - One - 5-gallon standard galvanized metal, fiber glass or rubberized backpack water container, with hand pump attached, to be filled at all times.

79.9 – Exhibit 01--Continued

- Weatherproofed tool box marked "FIRE ONLY," equipped with a hasp, kept sealed, and containing:
- One - Axe, double bit, 3.5#
- Two - Shovels (round point #0 lady or equal)
- Two - Pulaskis

The tool box shall be mounted on equipment, if feasible, unless another location is agreed to in writing. The tool box shall be within 100 feet of the designated machine at all times when operating. Only one (1) tool box is required at each active fixed location site.

- (ii) MOBILE EQUIPMENT. Examples include crawler tractors, rubber-tire skidders, soft-track skidders, forwarders, feller-bunchers, feller-processors, excavators, front-end loaders, back-hoes, scrapers, and motor graders.
 - One - Fire extinguisher, dry chemical type of not less than 2.5-pound capacity with a 4 B.C. or higher rating.
 - One - Shovel (round point #0 lady or equal). For equipping mobile equipment, an acceptable substitute is a "D-handle" round point shovel with a minimum 27-inch handle and a minimum 8- by 11-inch blade.
 - One - Axe, double bit, 3.5#, or one pulaski.
- (iii) SUPPORT EQUIPMENT. Examples include trucks, low-boys, busses, pickups, panels, automobiles, service trucks, or similar equipment used in transporting logs, people, equipment, and/or materials.
 - One - Fire extinguisher, dry chemical type of not less than 2.5-pound capacity with 4 B.C. or higher rating
 - One - Shovel (round point #0 lady or equal)
 - One - Axe, 2# or over, 26-inch minimum length, or one Pulaski
 - One - Bucket or similar water container (at least 1-gallon capacity)
- (iv) POWER SAWS
 - One - Shovel (round point #0 lady or equal). Shovel shall be with gas containers and/or no more than 100 feet distance from where sawyer is working.
 - One - Fire extinguisher, containing not less than eight (8) ounces of extinguisher fluid or a dry chemical powder type of not less than one (1) pound capacity. The extinguisher shall be carried by the operator at all times.

79.9 – Exhibit 01--Continued

Any fueling or refueling of a power saw shall only be done in an area which is free of or which has first been cleared of all material capable of carrying fire; such power saw shall be moved at least 10 feet from place of fueling before starting.

- (v) PUMP AND TRAILER. RMEF shall provide at a location satisfactory to the Forest Service, a serviceable truck or trailer equipped with a firefighting tanker unit to be kept ready for instant use for suppressing forest fires. The unit shall consist of a tank of not less than 100-gallon capacity upon which shall be mounted a live hose reel or live hose basket with 250 feet of a least 3/4-inch I.D. heavy-duty rubber hose; a portable or power takeoff pump with discharge capacity of at least 10 gallons per minute at 150 P.S.I. pressure. Gear type pumps shall be provided with a bypass or pressure relief valve so the hose nozzle may be shut while the pump is operating. Each tanker unit shall have a hose nozzle of the shut-off type, adjustable for straight stream, spray or fog, at least 12 feet of 1-inch suction hose with an intake screen, an additional 250 feet of 3/4-inch heavy-duty rubber hose or 1-inch cotton jacket rubber-lined or linen hose to be carried on the unit for use as needed. Tools, adapters, accessories and fuel necessary to operate the pump and truck or trailer shall be provided. If a trailer is used, a serviceable vehicle with the proper trailer tow hitch shall be located at a point satisfactory to Forest Service. Where water is available, a supply sufficient for rapidly filling the water tank shall be provided at one or more accessible points along or adjacent to the main truck roads.
- (b) Fire Tools on Stewardship Area. RMEF shall furnish and maintain in serviceable condition, in quantities and at locations to be designated by Forest Service, tool boxes, fire tools and other fire equipment to be used only for suppressing forest fires. Each tool box shall be weatherproofed and marked "TOOLS FOR FIRE ONLY" and kept sealed. These requirements are in addition to fire tool requirements for mobile, stationary, support or power saw equipment.
- (i) Special tool caches shall not be required when less than 20 people are employed on Stewardship Area, excluding logging truck drivers.
- (ii) Operations employing more than 20 individuals on Stewardship Area, excluding truck drivers, shall furnish a tool cache with a minimum of one serviceable tool per person in the following configuration:
- Axe, double bit, 3.5#, 10%
 - Shovels (round point #0 lady or equal), 45%
 - Pulaskis, 45%

79.9 – Exhibit 01--Continued

- (c) Spark Arresters. Each internal combustion engine shall be provided with a spark arrester or spark arresting device approved by Forest Service. Exceptions where Forest Service may approve mufflers or other equipment in lieu of spark arresters qualified and rated under Forest Service standard 5100-1a are: (a) small multi-position engines, such as chain saws, shall meet Society of Automotive Engineers J335b standards, (b) passenger-carrying vehicles and light trucks may have baffle-type muffler with tail pipe, (c) heavy-duty trucks may have a vertical stack exhaust system with muffler, provided the exhaust stack extends above the cab of the vehicle, (d) an exhaust driven turbocharger is considered to be a satisfactory spark arrester. Internal combustion engine exhaust systems, arresters and other devices shall be properly installed and maintained.
- (d) Blasting. Fuse or prima cord shall not be used unless authorized in writing by Forest Service, with special precautions stated.
- (e) Smoking. Smoking shall not be permitted within logging operations except on surfaced or dirt roads, at landings, within closed vehicles, in camps or at other posted places. Smoking shall not be permitted while working or traveling on foot, within or through Stewardship Area.
- (f) Precautions for Stoves. Stovepipes on all temporary buildings, trailers, and tents using wood-burning stoves shall be equipped with roof jacks and serviceable spark arresters of mesh with openings no larger than 5/8 inch. All stovepipes, inside and out, shall not be closer than two (2) feet from any wood or other flammable material or one (1) foot if the combustible material is protected by a metal or asbestos shield.
- (g) Debris Around Buildings. The grounds around buildings, tents and other structures shall be kept free of flammable material for a distance of at least 15 feet from the wall of such structures.
- (h) Storage of Petroleum and Other Highly Flammable Products. Gasoline, oil, grease, or other highly flammable material shall be stored either in a separate building or at a site where all combustible debris and vegetation is cleared away within a radius of 25 feet. Fire extinguishers and/or sand barrels may be required at such locations specified by Forest Service when unusually hazardous conditions exist.
- (i) Debris Burning and Warming Fires. Burning permits shall be required throughout the year for all debris burning fires. Lunch and warming fires may be allowed in fireproofed areas during periods of low fire danger as specified in the fire plan. Such fires shall not be left unattended.

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- (j) Cable Logging. All tail blocks and corner blocks shall be of an accepted haulback design which prevents line fouling and used with line guards. Such blocks shall be located to prevent cables from rubbing against trees, snags, down logs or rock when operating.

Areas adjacent to blocks shall be cleared of flammable material within a 5-foot radius. One shovel and one pulaski shall be maintained within 10 feet of each block.

- (k) Emergency Measures. Additional measures and/or other special requirements necessary during periods of critical fire-weather conditions shall be included in the fire prevention and presuppression plan.

- (l) Welding. Welding and use of cutting torches or cutoff saws will be permitted only in areas that have been cleared or are free of all material capable of carrying fire. Flammable debris and vegetation must be removed from within a minimum 10-foot radius of all welding and cutting operations. A shovel and a 5-gallon standard backpack water container filled and with handpump attached shall be immediately available for use in the event of a fire start.

47. Fire Control. The Partner shall, both independently and in cooperation with Forest Service, take all reasonable and practicable action to prevent and suppress fires resulting from the Partner's Operations and to suppress any forest fire on Stewardship Project Area. The Partner's independent initial fire suppression action on such fires shall be immediate and shall include the use of all necessary personnel and equipment at the Partner's disposal on Stewardship Project Area or within the distance of Stewardship Project Area: 5 miles.

- a. **The Partner's Reinforcement Obligations.** Whenever an Operations Fire or Negligent Fire, whether on or off Stewardship Project Area or any other forest fire on Stewardship Project Area, has not been suppressed by initial action and appreciable reinforcement strength is required, Forest Service may require further actions by the Partner until such fire is controlled and mopped up to a point of safety. Such actions may include any or all of the following as necessary to fight such fire:

- b. **Suspend Operations.** To suspend any or all of the Partner's Operations.

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- c. **Personnel.** To release for employment by Forest Service any or all of the Partner's personnel engaged in the Partner's Operations or timber processing within the distance of Stewardship Project Area: 5 *miles*. Any organized crew so hired shall include the Partner's supervisor, if any. Personnel so employed shall be paid at Forest Service standard emergency fire fighting rates.
- d. **Equipment.** To make available for Forest Service rental at fire fighting equipment rates common in the area or at prior agreed rates any or all of the Partner's equipment suitable for fire fighting and currently engaged in the Partner's Operations within the distance of Stewardship Project Area: 5 miles. Equipment shall be operated only by personnel approved by the Partner, if so requested by the Partner.

48. **Temporary Roads and Skid Trails.** The Partner shall locate Temporary Roads and Skid Trails on locations approved by the Forest Service. Such location shall include the marking of road centerline or grade-line and the setting of such construction stakes as are necessary to provide a suitable basis for economical construction and the protection of National Forest lands.

Temporary road surface width shall be limited to truck bunk width plus four (4) feet, except for needed turnouts which shall not exceed two (2) times the bunk width plus four (4) feet. If shovels or cranes with revolving carriage are used to skid or load, temporary road surface width equal to track width plus tail swing shall be permitted.

As necessary to attain stabilization of roadbed and fill slopes of Temporary Roads, the Partner shall employ such measures as outsloping, drainage dips, and water-spreading ditches.