

THIS INDENTURE OF LEASE, Made and entered into as of the 1 day of APR. 1, 1977, by and between LOVENESS COMPANY, herein after called "Lessor", and HOLL LOGGING COMPANY, hereinafter called "Lessee";

W I T N E S S E T H:

In consideration of the covenants, agreements and stipulations herein contained on the part of the Lessee to be paid, kept and faithfully performed, the Lessor does hereby Lease, demise and let unto the said Lessee those certain premises, as is, situated in the County of Klamath and State of Oregon, which the parties acknowledge that they know and have staked out themselves and to their satisfaction, being a portion of other property owned by Lessor.

To Have and To Hold the above described premises for a term of five (5) years commencing April, 1977 and terminating on March 31, 1982.

1. Rental: Lessee shall pay Lessor, in advance, an annual rental of Six Hundred and No/100 (\$600.00) Dollars. The first year's rental shall be paid on or before the date that Lessee takes possession of the premises and thereafter the annual rental shall be paid on or before April 1 of each calendar year until the total base rental of Three Thousand and No/100 (\$3,000.00) Dollars is paid in full.

2. Increase in Taxes: As rental in addition to the base rent, Lessee agrees to pay to Lessor, upon demand, any increase in tax or assessments levied against the property subject to this Lease which are allocated to improvements placed thereon by Lessee. If any increase occurs in the last year of the term of this lease, Lessee shall pay a pro rata thereof based on the ratio of the months of his occupancy during the fiscal year of 1982-1983 as the same bears to the full fiscal year of 1982-1983.

3. Business to be Conducted on the Premises: Lessee shall use the premises during the term of this Lease for the purpose of constructing a shop and providing a parking area for its logging equipment, and other services incidental thereto.

1 4. Extension of Term of Lease: If Lessee fully and faithfully
2 performs the covenants and agreements on the part of Lessee herein con-
3 tained, Lessee shall have the option to extend the term of this Lease
4 upon the same terms and conditions as herein specified for an additional
5 period of five (5) years from the end of the term of this Lease, with the
6 exception of rental. Rental for the extension of this Lease shall be an
7 amount equal to the aggregate of the base annual rental of Six Hundred
8 and No/100 (\$600.00) Dollars plus an increase thereof based upon any
9 increase in the Cost of Living Index as of March 31, 1982. Computation
10 of such increase shall be determined as follows: The sum of Six Hundred
11 and No/100 (\$600.00) Dollars shall be multiplied by a fraction, the
12 numerator of which shall be the difference between the anniversary index
13 and the base index (provided such difference is in excess of the base
14 index) and the denominator of which shall be the base index. If the
15 difference is not in excess of the base index, no computation shall be
16 made. For the purposes of this paragraph, the following terms shall apply:

17 a. Cost of Living Index: The term "Cost of Living Index"
18 shall mean the all-cities average cost of living index promulgated
19 by the Bureau of Statistics of the Department of Labor of the United
20 States of America, or any successor or substitute therefor, includ-
21 ing any adjustments which reflect any modification of such cost of
22 living index factors in years following the base index year.

23 b. Base Index: The term "Base Index" shall mean the cost of
24 living index as of April 1, 1977.

25 c. Anniversary Index: The term "Anniversary Index" shall mean
26 the cost of living index as of the "Anniversary Date".

27 d. Anniversary Date: The term "Anniversary Date" shall mean
28 March 31, 1982.

29 The result of such multiplication shall then be divided by twelve (12)
30 and the sum so arrived at shall be added to the base annual rent to
31 form the new base annual rent. In making such computations, consideration
32 shall be given to adjustments to reflect the true increase in the cost

1 of living index if the agency which promulgates such cost of living
2 index adjusts its factor to reflect a different percentage. Said option
3 shall be exercised by said Lessee giving Lessor written notice of Lessee's
4 exercise of said option by no later than February 1, 1982. If Lessee
5 gives such written notice, this Lease shall be so extended automatically
6 without execution of any written agreement, except the parties shall
7 append to this Lease the amount of the base rent as determined herein.
8 This option shall be void, however, if Lessee is not in possession of
9 the premises under this Lease at the time of giving such notice, or if
10 Lessee is in default under this Lease at the time of an attempt to exer-
11 cise said option, or if Lessee does not, in fact, exercise such option
12 in writing on or before February 1, 1982. If Lessee exercises the
13 aforementioned option, and is in possession under the extension of this
14 Lease, he shall have a further series of one (1) option for extension
15 of five (5) years. The first further extension of this Lease shall be
16 on the same terms and conditions as contained in this Lease, except the
17 rent of each extension shall be further increased proportionate to any
18 increase in the cost of living. Such increase shall be determined by the
19 same formula as previously set forth (except that the base index of such
20 fraction for the first further five-year extension shall be the Cost of
21 Living Index as of April 1, 1982). To exercise any of these options to
22 extend, Lessee must notify Lessor in writing as follows: The written
23 notification must be made for the first further extension on or before
24 February 1, 1987. In the event an option is validly exercised, this
25 Lease shall automatically extend itself for the additional option period
26 without the execution of any further agreement, except that the parties
27 shall append to this Lease the amount of base rent arrived at pursuant
28 to the formula herein contained. Any option, however, shall be void if
29 the Lessee is not in possession of the premises under this Lease at the
30 time of giving of such notice, or if Lessee is in default under any of
31 the terms of this Lease at the time of the exercise of such option, or
32 if Lessee fails to exercise a prior option, or if Lessee does not, in

Indenture of Lease
Page -3-

fact, exercise any options provided for herein in writing on or before the date specified.

5. Acceptance of Premises: Upon taking possession of the demised premises, Lessee shall be conclusively presumed to have accepted the same, as is, as satisfactory for Lessee's purposes.

6. Improvements: Lessor hereby recognizes that Lessee will be placing improvements upon the property consisting of a building, fencing and related equipment. Lessor agrees to furnish water from his wells to said facilities to the extent that Lessor has water available for that purpose. Upon the termination of this Lease Agreement, or any extension thereof, Lessor agrees to purchase from Lessee the improvements placed upon said property by Lessee at Lessee's cost increased by the Cost of Living Index to the date of termination, less depreciation upon such cost based upon a twenty-five year straight-line depreciation schedule for the number of years the improvements were used. For purposes of this provision, the Cost of Living Index, shall be computed by multiplying the cost of the improvements, as they are incurred, by a fraction the numerator of which will be the Cost of Living Index upon the date of termination and the denominator of which will be the Cost of Living Index as of the date the improvements were made.

7. Addresses: For the purpose of any notice given under the terms of this Lease, such notice may be given to the parties at their respective addresses, which are as follows:

Holl Logging Co., P.O. Box 84, Merrill, OR 97633

Loveness Company, Star Route, Box 14, Malin, OR 97632

Either party may change his address by written notice delivered to the other party at the address set forth above.

8. Use of Premises:

a. Proper Use: Lessee will not make any unlawful, improper or offensive use of said premises; Lessee will not suffer any strip or waste thereof; Lessee will not permit any objectionable noise or odor to escape or to be emitted from said premises or do anything

or permit anything to be done upon or about said premises in any way tending to create a nuisance; Lessee will not sell or permit to be sold any spiritous, vinous or malt liquors on said premises, excepting such as Lessee may be licensed by law to sell and as may be herein expressly permitted.

9. Utilities: Lessee shall pay for all heat, light, power and other services or utilities used in the above demised premises during the term of this Lease. Lessor shall provide Lessee with water to the extent that Lessor has water available from his own well.

10. Repairs and Improvements: All repairs and improvements shall be the obligation of Lessee.

11. Lessor's Right of Entry: It shall be lawful for Lessor, his agents and representatives, at any reasonable time, to enter into or upon said demised premises for the purpose of examining into the condition thereof, or to show the same to prospective purchasers or lenders, or for any other lawful purpose.

12. Right of Assignment: Lessee will not assign, transfer, pledge, hypothecate, surrender or dispose of this Lease, or any interest herein, or permit any other person or persons whomsoever to occupy the demised premises without the written consent of Lessor being first obtained in writing; this Lease is personal to said Lessee; Lessee's interests, in whole or in part, cannot be sold, assigned, transferred, seized or taken by operation at law, or under or by virtue of any execution or legal process, attachment or proceedings instituted against Lessee, or under or by virtue of any bankruptcy or insolvency proceedings had in regard to Lessee or in any other manner, except as above mentioned.

13. Liens: Lessee will not permit any lien of any kind, type or description to be placed or imposed upon the building in which said leased premises are situated, or any part thereof, or the real estate on which it stands.

14. Exemption of Lessor from Liability, Indemnification by Lessee and Liability Insurance:

a. Lessee's Obligation of Indemnity of Lessor: Lessee shall save and hold harmless Lessor from, and hereby indemnifies Lessor against, liability to Lessee or to any other person for or on account of any death or injury to persons, or any damage to property in or about the leased premises or for or on account of any death or injury to persons or any damage to property in or about the leased premises, including the merchandise, fixtures or equipment of lessee that may result by reason of any condition or present or future lack of repair of the leased premises or improvements thereon, or the writing, equipment, furnishings, fixtures, apparatus, or any sign, advertising or display device, awning or other like covering therein or thereon, or by or from any person or persons lawfully or unlawfully upon said premises, or by or from any act, omission or neglect of any such person, or in any manner whatsoever growing out of the past, present or future condition or use of the leased premises or improvements thereon or any part thereof, including any attorney fees and costs.

15. Waiver of Subrogation Rights: Neither Lessor nor Lessee shall be liable to the other for loss arising out of damage to or destruction of the leased premises, or the building or improvement of which the leased premises are a part or with which they are connected, or the contents of any thereof, when such loss is caused by any of the perils which are or could be included within or insured against by a standard form of fire insurance with extended coverage, including sprinkler leakage insurance, if any. All such claims for any and all loss, however caused, hereby are waived. Said absence of liability shall exist whether or not the damage or destruction is caused by the negligence of either Lessor or Lessee or by any of their respective agents, servants or employees. It is the intention and agreement of Lessor and Lessee that the rentals reserved by this Lease have been fixed in contemplation that each party shall fully provide his own insurance protection at his own expense, and that each party shall look to his respective insurance

1 carriers for reimbursement of any such loss, and further, that the in-
2 surance carriers involved shall not be entitled to subrogation under
3 any circumstances against any party to this Lease. Neither Lessor nor
4 Lessee shall have any interest or claim in the other's insurance policy
5 or policies, or the proceeds thereof, unless specifically covered there-
6 in as a joint assured.

7 16. Eminent Domain: If the premises above demised, or any portion
8 thereof, excepting such fixtures as Lessee shall have the right to remove
9 under the terms of this Lease, or any portion thereof, be taken by any
10 entity having the power of eminent domain pursuant to the laws of eminent
11 domain and condemnation, all moneys paid for the taking of said real
12 property or buildings, or both, or of any portion thereof, shall be re-
13 tained by Lessor, and Lessee shall have no claim against Lessor as a
14 result of the condemnation. If the entire real property described here-
15 in shall be taken by such proceeding, this Lease shall terminate as of
16 the date title vests in the condemning authority, and all moneys paid
17 under such taking shall be and remain the sole and exclusive property
18 of Lessor, it being understood and agreed that, upon vacation of the
19 premises by Lessee, Lessee shall be entitled to the return of any unused
20 portion of prepaid rental and/or security deposit. Nothing herein con-
21 tained shall be so construed as to give Lessor any right, title or inter-
22 est in or to the personal property of Lessee, which Lessee shall have
23 the right, under the terms of this Lease, to remove. If a partial taking
24 of the leased premises occurs which makes occupancy of the same for the
25 purposes of this Lease impractical, this Lease shall terminate as of
26 the date title vests in the condemning authority, in which event all
27 the unused portion of any prepaid rentals and/or security deposit as
28 of the date of vacation of the premises by Lessee shall be returned to
29 Lessee and all other rentals completely abated. Sale of all or part
30 of the leased premises to a purchaser with the power of eminent domain
31 in the face of a threat of probable exercise of such power shall be
32 treated, for the purposes of this provision, as a taking by eminent

1 domain or condemnation.

2 17. Payment of Taxes on Lessee's Property: Lessor shall have no
3 obligation to pay any personal property taxes and assessments levied
4 by any taxing authority upon the personal property, equipment, fixtures
5 and inventory of Lessee and that said personal property taxes, assess-
6 ments and levies, both rolled and not rolled, shall be paid by Lessee.

7 18. Lessee to Maintain Fire Insurance: Lessee shall maintain in-
8 surance against loss by fire with a reputable insurance company on
9 Lessee's personal property, equipment, fixtures and inventories, at
10 Lessee's expense, in such amounts as Lessee shall choose, and Lessor
11 shall be under no obligation to Lessee to insure the same.

12 19. Notices: Any notice required by the terms of this Lease to
13 be given by one party hereto to the other or desired so to be given,
14 shall be sufficient if in writing contained in a sealed envelope, de-
15 posited in the United States Registered Mails with postage fully pre-
16 paid, and if intended for Lessor herein, then if addressed to said Lessor
17 at the address shown in paragraph 7 of this Lease, and if intended for
18 Lessee, then if addressed to Lessee at the address shown in paragraph 7
19 of this Lease. Any such notice shall be deemed conclusively to have
20 been delivered to the addressee thereof 48 hours after the deposit there-
21 of in said United States Registered Mails.

22 20. Delivering up Premises on Termination: At the expiration of
23 said term or upon any sooner termination thereof, Lessee will quit and
24 deliver up said leased premises and all future erections or additions
25 to or upon the same, broom-clean, to Lessor or those having Lessor's
26 estate in the premises, peaceably, quietly and in as good order and
27 condition, reasonable use and wear thereof, damage by fire, unavoidable
28 casualty and the elements alone excepted, as the same are now in or here-
29 after may be put in by Lessor.

30 21. Holding Over: In the event Lessee, for any reason, shall hold
31 over after the expiration of this Lease, such holding over shall not
32 be deemed to operate as a renewal or extension of this Lease, but shall

1 only create a tenancy from month to month which may be terminated at
2 will at any time by Lessor.

3 22. For Sale and For Rent Signs: During the period of days prior
4 to the date above fixed for the termination of this Lease, Lessor herein
5 may post on said premises or in the windows thereof signs of moderate
6 size notifying the public that the premises are "for sale" or "for rent"
7 or "for lease".

8 23. Waiver: Any waiver by Lessor of any breach of any covenant
9 herein contained to be kept and performed by Lessee shall not be deemed
10 or considered as a continuing waiver, and shall not operate to bar or
11 prevent Lessor from declaring a forfeiture for any succeeding breach,
12 either of the same condition or covenant or otherwise.

13 24. Heirs and Assigns: All rights, remedies and liabilities here-
14 in given to or imposed upon either of the parties hereto shall extend
15 to, inure to the benefit of and bind, as the circumstances may require,
16 the heirs, executors, administrators, successors and, so far as this
17 Lease is assignable by the terms hereof, to the assigns of such parties.

18 25. Time of the Essence and Remedies by Lessor:

19 a. Time: Time is the essence of this Lease agreement and
20 that this Lease is upon the express condition that, if Lessee fails
21 to pay the rental reserved and provided hereunder for a period of
22 ten (10) days after the same becomes due, or fails to observe, per-
23 form, keep or comply with any covenant, agreement, condition or
24 provision of the Lease to be observed, performed, kept or complied
25 with by Lessee, Lessor, or Lessor's successors in interest, may,
26 at Lessor's option, immediately, or at any time thereafter while
27 such default continues, forthwith and without further notice, termi-
28 nate this Lease, whereupon, without any other act on the part of
29 Lessor, all rights, interest and estate of Lessee hereunder shall
30 utterly cease and terminate, and Lessor shall thereupon be re-entred
31 in the full estate of said premises as if this Lease had never been
32 entered into, and, in such event, Lessee hereby agrees to vacate

1 said premises peaceably and forthwith, and, if Lessee fails to do
2 so, Lessor may, without further notice, enter upon said premises,
3 or any part thereof, in the name of the whole, and expell Lessee,
4 Lessee's agents, employees and representatives therefrom and remove
5 therefrom Lessee's property and effects, without legal process and
6 without trespassing and without liability for damage or injury to
7 person or property, Lessor to retain all prepaid rentals as liquid-
8 ated damages for such breach of this Lease, without, in any manner,
9 preventing or affecting the rights of Lessor to recover any rentals
10 in arrear, hereunder and/or any additional damages actually sus-
11 tained by Lessor by reason of or resulting from such default or
12 defaults of Lessee and without any prejudice to any remedies which
13 might otherwise be used for arrears of rent or proceedings for
14 breach of covenant.

15 b. Liability: Lessor may, as Lessee's agent, and without
16 being obligated to do so, rent the premises for the best rental
17 and best terms then reasonably obtainable without releasing Lessee
18 hereunder from any liability for rent or otherwise, applying any
19 moneys collected first to the expenses of such repossession and
20 such renting, and then to the payment of the rent and all charges
21 due or to become due to Lessor under the terms of this present
22 Lease, any surplus to be paid to Lessee, who shall remain liable
23 for any deficiency of rent under this Lease, with this proviso,
24 however, that Lessor may immediately bring action or suit for the
25 deficiency of unpaid rent upon the renting of said premises as
26 agents of Lessee, and provided further, that no waiver of any breach
27 of any covenant herein contained to be kept by Lessee shall be
28 deemed or considered as a continuing waiver or a waiver of any sub-
29 sequent breach of the same covenant or of any other covenant.

30 26. Attorney Fees and Court Costs: In the event suit or action
31 is instituted to enforce compliance with any of the terms, covenants
32 or conditions of this Lease, or to collect the rental which may become

1 due hereunder, or any portion thereof, the prevailing party shall re-
2 cover from the other party such sum as the trial court may adjudge reason-
3 able as attorney fees to be allowed in such suit or action and in the
4 event any appeal is taken from any judgment or decree in such suit or
5 action, such further sum as the appellate court shall adjudge reasonable
6 as attorney fees on such appeal, in addition to costs and disbursements
7 allowed by law, Lessee also agrees to pay and discharge all Lessor's
8 costs and expenses, including Lessor's reasonable attorney fees, that
9 shall arise from enforcing any provisions or covenants of this Lease
10 even though no suit or action is instituted.

11 27. Construction: In construing this Lease, it is understood that
12 Lessor or Lessee may be more than one person; that if the context so
13 requires, the singular pronoun shall be taken to mean and include the
14 plural, the masculine, the feminine and the neuter, and that generally
15 all grammatical changes shall be made, assumed and implied to make the
16 provisions hereof apply equally to corporations and individuals.

17 28. Title: Paragraph headings in this Lease are for convenience
18 only and are not to be construed as part of this agreement.

19 IN WITNESS WHEREOF, the respective parties have executed this in-
20 strument on this, the day and year first above written, any corporate
21 signature being by authority of its Board of Directors.

22 HOLL LOGGING COMPANY

LOVENESS COMPANY

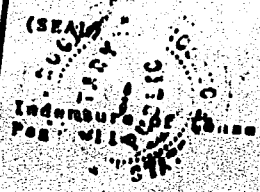
23
24 By [Signature]

By [Signature]

25
26 STATE OF OREGON
27 County of Klamath) ss.

28 On this 14 day of April, 1977, personally appeared
29 the above named Dennis V. Holl and R. E. Lovness
30 foregoing to be their voluntary act and deed.

Before me:



31 [Signature]
32 Notary Public for Oregon
My commission expires: 4-11-81

3495
15012

1 STATE OF OREGON
2 County of Klamath } ss.

3 On this _____ day of _____, 1977, personally appeared
4 the above named _____ and acknowledged the
5 foregoing to be _____ voluntary act and deed.
6
7 Before me:
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

(SEAL)

Notary Public for Oregon
My commission expires: _____

STAT _____ CO. OF Klamath, ss.
Filed for record at request of Steven Zamsky, Attorney
his 21st day of August A.D. 1981 at 3:20 o'clock P. M. and
duly recorded in Vol. 881 of Deeds on Page 15000
By Evelyn Biehn County Clerk
Fee \$42.00

After recording return to:

STEVEN A. ZAMSKY, P.C.
110 North 6th, Suite 207
Klamath Falls, OR 97601

STATE OF OREGON: COUNTY OF KLAMATH: ss.
Filed for record at request of _____
of _____ A.D. 19 87 at 8:45 o'clock _____ the _____ day
of _____ Deeds _____ on Page 3483
By Evelyn Biehn County Clerk
Ann Smith

3.00