

30055

## TIMBER DEED

Vol. m9 / Page 10298

PARTIES:  
 power of attorney:  
 Louise I. Kilgore  
 Silas W. Kilgore  
 Rt. Box 111 C  
 Bonanza, Oregon  
 97623

(Seller)

Rel:  
 Ewauna Forests Inc.  
 3202 Laverne Ave.  
 Klamath Falls, OR 97603

(Purchaser)

## AGREEMENT:

1. Conveyance of Timber Seller hereby grants, bargains, sells and conveys to Purchaser all of the merchantable timber (Timber) lying or standing upon that certain Property (the "Property") in Klamath County, Oregon described as follows: T 41S, R 15E; Portions of Sec 18 & 19; T 40 S R 15E; Portion of Sec 19; Portion of Sec 30; T 41 S, R 14E; NE  $\frac{1}{4}$  Sec 24; Portion of Sec 13; NE  $\frac{1}{4}$  Sec 14; SE  $\frac{1}{2}$  of SE  $\frac{1}{4}$  Sec 14; SW  $\frac{1}{4}$  of SE  $\frac{1}{4}$ ; SE  $\frac{1}{4}$  of SW  $\frac{1}{4}$

Merchantable Timber is defined as all of the Ponderosa Pine on the property measuring 12 inches or more in diameter at the height of forty eight inches above the ground.

2. Consideration The true and actual consideration paid for this transfer is \$ 115/MBE, receipt of which is hereby acknowledged by Seller. 5/21/91 SK

3. Recording Fees If Purchaser desires to record this Timber Deed, it shall do so at its own expense.

4. Time for Removal Purchaser shall have the right to enter upon the Property and to remove the Timber therefrom at any time between the date of this deed and 8/31/91. All Timber not so removed on or before the expiration of said period shall revert immediately to Seller. SK

5. Access During the above period, Purchaser shall have the right to build and use existing roads on the Property as reasonably necessary to harvest and remove the Timber from the Property.

6. Covenants of Seller Seller makes the following promises, covenants and warranties concerning the Property and Timber:

a. Seller is the owner of the Property and Timber and the Property and Timber are free from all encumbrances that would render the Timber unmarketable.

b. Seller warrants access to the Property to harvest and remove the Timber.

c. Seller will warrant and defend the title to the Timber and the access to the Property to harvest and remove the Timber without restriction against the claims and demands of all persons whomsoever.

7. Convenants of Purchaser Purchaser shall observe and conform to all local, state and federal laws and regulations relative to its operations on the Property, including the orders and directions of the State Forester and the State Fire Marshall, and shall further cooperate with all public bodies and officials in the prevention and suppression of fires on or threatening said lands. All logging and other operations in connection therewith shall be conducted by Purchaser in a good and workmanlike manner in accordance with the Oregon Forest Practices Act.

8. Risk of Loss The risk of loss to the Timber due to any cause shall shift to Purchaser (except losses resulting from the act or omissions of Seller) upon the execution of this Timber Deed.

9. Purchaser's Liability Purchaser shall repair or replace any fences, bridges or other improvements which Purchaser or its employees, agents or independent contractors damages or destroys during the harvesting and removal of the Timber. Purchaser further assumes all liability for and agrees to indemnify and save Seller harmless for any injuries, claims, damages or liability arising on the Property and caused by the operations of Purchaser during the harvesting and removal of the Timber from the Property, including, but not limited to, injuries sustained by Purchaser's employees, agents and independent contractors during harvesting and removal of the Timber. Upon notice to Seller of any claim for which Seller intends to seek indemnification hereunder, Seller shall give the Purchaser notice of such claim within seven (7) days of the time Seller receives notice of such claim and Purchaser shall be given the opportunity to contest and defend such claim. Under no circumstances may Seller compromise or settle any claim for which Seller intends to seek indemnification hereunder without Purchaser's prior written approval.

10. Insurance Before commencing operations under this contract, Purchaser, at its expense, shall procure and maintain in full force and effect until it has ceased operations on the Property, insurance covering both legally imposed and contractually assumed liabilities as specified herein, including public liability insurance for injury to or death of persons and for damage to the Property, and Purchaser shall furnish Seller the certificate of an appropriate insurance company evidencing such insurance upon written request by the Seller. This insurance shall include:

a. Comprehensive general liability insurance with loggers broad form in amounts not less than \$500,000.00.

b. Automobile liability insurance covering all motor vehicles utilized by Purchaser in connection with Purchaser's activities in amounts not less than \$500,000.00.

c. Worker's Compensation insurance as required by law.

11. Taxes Purchaser shall be liable for and shall pay when due the severance and forest products harvest taxes which result from the harvesting of the Timber. Real property taxes and any other assessments against the Property shall remain the responsibility of Seller.

12. Slash Disposal and Reforestation Purchaser shall pile the slash remaining on the Property after the harvest and removal of the Timber. Otherwise, Seller shall be responsible for and shall pay the expense of slash disposal and reforestation of the Property after the removal of the Timber as required by the Oregon Forest Practices Act.

13. Forces Majeure If the performance of either party of any obligation hereunder is delayed due to any cause beyond the reasonable control of the parties, including by not limited to environmental litigation or fire restrictions imposed by the Oregon Department of Forestry or other governmental agency, the time for performance shall be extended by the period of the delay.

14. Attorney Fees If an action is brought to enforce, rescind, or otherwise concerning this contract, the prevailing party shall be entitled to recovery from the other party, in addition to cost and disbursements allowed by law, costs of evidencing title and their reasonable attorney fees incurred therein, and in any appeal therefrom, and in enforcing and collecting any judgement.

Dated this 4/17 day of May, 1990

Silas M. Kilgore SW  
(Seller)  
Louise L. Kilgore

Randy L. Shaw  
(Purchaser)  
Secretary Ewauna Inc.

Timber Deed - page three

STATE OF OREGON: COUNTY OF KLAMATH: ss.

Filed for record at request of Randy L. Shaw the 31st day of May A.D., 19 91 at 10:09 o'clock A.M., and duly recorded in Vol. M91 of Deeds on Page 10298.

FEE \$15.00

Evelyn Biehn  
By Quentin Mueller County Clerk