

DRAFT AGREEMENT

This agreement made and executed on this ____ day of ____
2014 by and between

The **Andhra Pradesh Forest Development Corporation Limited**, an Indian Company, represented by Sri _____ its Vice Chairman and Managing Director, 3rd Floor, UNI Building, A.C. Guards, Hyderabad – 500 004, hereinafter called the **First Party**, which term shall include its successors in office and assigns, etc., on the One Part.

AND

M/s. _____, having its Registered Office at _____, represented by its Authorised Agent _____, hereinafter called the **Second Party**, which term shall include its successors in office and assigns, etc., on the Other Part.

WHERE AS The Govt. of India, Ministry of Commerce , Directorate General of Foreign Trade through Notification No. 47 (RE- 2013)/2009-2014, New Delhi Dated the 24 October, 2013 has permitted government of Andhra Pradesh to export 8584.1363 MTs of Red Sanders Wood in log form either by itself or through any entity /entities so authorised by them for the purpose .

WHEREAS Government of Andhra Pradesh, Andhra Pradesh Forest Department, India invited bids on the basis of competitive bidding through e-tender cum e-auction conducted by MSTC Limited (A Govt. of India enterprise) proposed to sell about 4000 Metric Tons of Confiscated, Dressed and Graded Red Sanders (*Pterocarpus santalinus*) wood, whether for consumption in the country or for export "as is where is basis without any segregation of logs in the notified Lots" vide Rc. no. _____ dated _____.

The **DGFT, Department of Commerce, Ministry of Commerce and Industry** vide their Notification No. 47 (RE-2013)/2009-2014 dated

24.10.2013 have given exemption for export of 8584.1363 M.Ts. of Red Sanders wood in log form.

WHEREAS the Second Party has been allotted _____ M.T. of Red Sanders wood logs, in 'A', 'B' and 'C' and non grades of Red Sanders wood logs for export in log form/ for domestic consumption vide G.O.Ms.No.____ dt._____.

WHEREAS Government of Andhra Pradesh has appointed the First Party as agent vide **G.O.Rt. No.278 dt.25.07.2014**, for the sale of Red Sanders wood logs on behalf of the Government of Andhra Pradesh. The AP Forest Development Corporation Limited has to obtain the Export Licence from Government of India, Min. of Commerce/ Min.of Environment & Forests and other permissions from State Forest Department and other departments etc. as required. All the invoices and other documents are to be prepared by AP Forest Development Corporation Limited and the company's India representative will assist the APFDC in this regard. The AP Forest Development Corporation Limited is entitled for all incentives in this regard.

Now it is hereby agreed by and between the parties hereto as follows:

I. Quantity:

The first party agreed to arrange for export of _____ M.T. of Red Sanders wood (*Pterocarpus santalinus*) logs of 'A', 'B' 'C' and non grades to the second party in _____ who had participated in the tenders, offered the rates and agreed to import Red Sanders wood in log form. The rates finalised in the e-tender cum e-auction process are as follows, Ex-Godowns of Forest Department:

E lot no 'A' Grade .. _____M.T. USD/Rs._____/M.T.(from_____
Depots)
E lot no "B' Grade .. _____M.T. USD/Rs._____/M.T.(from_____
Depots)

E lot no 'C' Grade .. _____M.T. USD/Rs._____/M.T.(from_____
Depots)
E lot no 'Non'Grade .. _____M.T. USD/Rs._____/M.T.(from_____
Depots)

II. Payment:

i)The Second Party shall pay the sale value along with taxes as applicable **within stipulated time as per sale order/acceptance letter Rc no _____ dated ____ as detailed below.**

The balance Sale Value i.e. 75% sale value (inclusive of Pre-bid Deposit and excluding Additional Pre-bid Deposit) along with statutory taxes, duties, etc. shall be paid within **30** days from the date of Sale Order/Acceptance Letter, by demand draft/PO/RTGS/NEFT/SWIFT through any nationalized bank in favor of A P Forest Development Corporation Ltd, payable at Hyderabad USD/INR. Cash payment will not be accepted under any circumstances. In case the last date for payment of balance sale amount etc. falls on a public Holiday / Non Banking day in India, due amounts shall be paid on the next working day.

“No payment by any third party on behalf of the Second Party will be accepted by First Party”.

Each e-auction LOT is treated as independent contract for the purpose of bid, sale, agreement, payments, delivery etc.

It is specifically understood by both parties that time is essence of the contract. The second party has agreed to the time schedule to make payments.

ii)**DEFAULT IN PAYMENT OF SALE VALUE:** In case of delay, the Second Party will be allowed to make the payment by further 14 (Fourteen) days with interest @1% per week on balance sale value remaining unpaid commencing from 31st day from the date of acceptance letter subject to payment of interest amount in advance to APFDC Ltd before 30th day from the date of issuance of acceptance letter. If the period of delayed payment is one week or less than one week the interest shall be calculated for one week and if the period of delayed payment is more than one week but less than two weeks or two weeks the interest shall be calculated for two weeks.,

In case Second Party failing to make the payment as above, their 25% of the sale value including Pre-bid Deposit and

Additional Pre-bid Deposit amount in full will automatically stand forfeited to A P Forest Development Corporation Ltd and no further correspondence will be made or entertained in this regard.

Under any circumstances, further extension of time will not be allowed. After payment of total bid amount including taxes and duties within the stipulated time, the e-auction LOT will be delivered to successful bidders.

III. Performance Deposit:

The additional pre-bid deposit paid by the Highest H1 Bidder on confirmation of sale by the Competent Authority will be converted as Performance Deposit which will be released after completion of the contract.

IV) DELIVERY OF MATERIAL:

- i) On receipt of 100% Sale Value including taxes and duties and NATIONAL BIO-DIVERSITY AUTHORITY / STATE BIO-DIVERSITY AUTHORITY –ABS FEES, the first party arranges for issue Delivery Order through APFD. The delivery period is 90 calendar days counted from the date of issuance of Acceptance Letter to the Second Party. If the last date of delivery happens to be Holiday or closed for any other reason for APFD, the delivery will be allowed on the next day without any ground rent.
- a) For the purpose of taking delivery from the APFD Location/Depot, the authorised representative of the SECOND PARTY i.e. the authorized MSTC e-auction Photo ID Card Holder should report to the APFD along with his original Photo ID Card or the said Photo ID Card Holder may depute any other Representative along with Authority Letter on Letter-Head after duly attesting the signature of his Representative along with a Self Certified/Notarized Photocopy of his Photo ID Card. The SECOND PARTY must take prior permission from the APFD before placement of vehicle for taking delivery of material.
 - b) The SECOND PARTY in whose name the Sale is accepted shall transport the material under the cover of a Transit permit in Form-II to be issued by the competent authority of Forest Department to the destination approved by the concerned Divisional Forest Officer in terms of A.P Red Sanders (Possession) Rules, 1989 within the jurisdiction of Andhra Pradesh. Upon reaching the destination the Second Party shall report about the arrival of the Red Sanders Wood to the local Divisional Forest Officer. Any conversion of such material into value added products (VAP) should be done with the prior permission of the local Divisional Forest Officer.

c) The material so purchased shall not be allowed to be exported outside India unless the Second Party obtains a "Certificate of Origin" from APFD and necessary clearance from the Government of India as per Rules in vogue. The APFD has appointed M/s APFCDL for export permission on their export license of Red Sander woods in Log form only under Directorate General of Foreign Trade Notification No. 47 (RE- 2013)/2009-2014, New Delhi Dated the 24 October, 2013.

The Second Party will make necessary arrangement to obtain necessary certificates from the appropriate authority as and when required for transportation for domestic or export of Red Sanders Woods.

The First party/APFD is not responsible for any detention/holding up of the consignments by the custom department due to any omission/duties of the successful bidders or arising out of any custom procedure / legal proceedings.

d)The material purchased by the SECOND PARTY shall not be allowed to be kept in any Depot within the jurisdiction of Andhra Pradesh once it is removed from the Government Depot without prior permission of the concerned Divisional Forest Officer as per the A.P. Red Sanders Wood (Possession) Rules, 1989 and any other Act/Rule in force. Violation of this condition shall result in confiscation of the material besides imposing a penalty as decided by the Competent Authority, as per Rules in force.

e)The SECOND PARTY shall at all times, be bound by the provisions of Andhra Pradesh Forest Act. Of 1967 and the Rules made there under.

f)The provisions of the Sale of Goods Act, 1930 as amended from time to time, shall apply to this e-auction on confirmation and the buyers shall abide by the provisions of the said Act.

g) Any violation or infringement of e-auction terms & conditions and provisions of Andhra Pradesh Forest Act, 1967 and the Rules made there under as amended from time to time will entail cancellation of sale and forfeiture of amounts paid already and confiscation of the material.

h)The SECOND PARTY should engage their own men for weighment, loading and transport.

i) The decision of the APFD is final in the aspects of identification, mode of lifting the material, safety precautions to be observed while in transit, documentation, methods to be adopted while in transit of the material etc..

j) The entry of vehicles in to premises and loading of materials will be permitted as per APFD timings indicated from time to time.

- k) The materials sold shall be removed by the SECOND PARTY from the Lot as per the sole direction of the APFD and no segregation of items from the sold Lots will be permitted.
- l) For the purpose of removing the materials, the SECOND PARTY shall employ or engage only his / their own personnel and shall keep the APFD/FIRST PARTY fully indemnified against any claims whatsoever including claim for wage, injuries, compensation, death etc.
- m) While removing materials, if any accident or damage to the property/life etc. arises by reason of any act of negligence /omission /default or non-compliance with any of the Terms & Conditions of statutory regulations or rules and regulations applicable within APFD premises, on the part of the SECOND PARTY / his representative or employees resulting in death or injury to any persons or damages to the property of Seller or any third Party then in such an event Second Party will have to pay compensation to any such person including the employees of Seller for such injury / for damage to person's property of such persons. The SECOND PARTY shall in such event keep the First Party/APFD indemnified from any demand, claims or proceedings made
- n)UNIT OF MEASUREMENT (UOM) FOR DELIVERY:** Each Lot/Unit sold will be delivered on the basis of Unit Of Measurement (i.e. UOM) as Metric ton (MT) stipulated in the Material List displayed on the e-auction Floor of 'View Live e-auctions'. Any representation/complaint from the Second party made on the basis of any other Unit of Measurement will not be entertained
- ii)LIFTING OF MATERIAL:** The period of lifting the entire material of ___M.T. of Red Sanders wood logs from various Godowns of Forest Department is 90 days from the date of issuance of Acceptance Letter to the Second Party.
- iii)If the Second Party fails to lift the stocks within 90 days from the date of issuance of acceptance letter, ground rent will be collected @ 1% on sale value up to a period of 2 weeks by the APFD in advance on e-auction LOT basis. The Ground Rent will be calculated on the value of entire Lot even if lifted in part.
- iv) If Lifting is not completed within the stipulated time, Second Party cannot have claim over the un-lifted material and entire money paid will stand automatically forfeited including post bid deposit and Pre-bid deposit including Additional Pre-bid Deposit.
- v) The goods after delivery period if left at APFD Depot/site will remain at the sole risk and responsibility of the Second Party . The First party/APFD will not undertake any liability whatsoever for the safe custody. Protection or preservation after the period of delivery of the lots as put up for sale subject to change by nature's wear and tear, exposure to atmospheric condition will be effected by First party/APFD. No complaints regarding quality or mis-description for

the material sold will be entertained once the delivery period is expired.

- vi) **Second Party** shall solely be responsible for movement and proper behavior of their deputies, agents, servants within APFD premises. If any damage is caused to the APFD property, the **Second Party** is responsible to make good such loss and such damage to the satisfaction of the APFD and the decision of APFD in this regard shall be final and binding.
- vii) The **Second Party** should intimate in writing two days in advance to APFD as to when the vehicle will come for taking out their materials. If the **Second Party** comes without prior written intimation, Concerned Divisional Forest Officer has got the right to return the vehicle without loading and purchaser cannot claim for any loss towards the same.
- viii) On any dispute the Appeal shall lie with the Prl. Chief Conservator of Forest, Andhra Pradesh Forest Department, Hyderabad, provided the **Second Party** prefers an appeal within (15) days from the date of passing of any order by the Conservator of Forests concerned. Orders issued on such appeal by the Prl. Chief Conservator of Forest shall be final.

V. Certificate of Origin:

For the material in question for export by the First party, the certificate of origin will be issued by the Principal Chief Conservator of Forests, Andhra Pradesh, Hyderabad.

VI. Transport and other expenses:

All the expenses towards transportation from various godown/s of the Forest Dept to the Exporting port, including Loading, unloading, terrestrial transport, permit costs, C&F charges, ocean freight, stuffing the containers, customs clearances, insurance etc, shall be borne by the **Second Party**.

VII. Export Licence etc:

The First party shall obtain the Export licence from Government of India, Ministry of Commerce and other requisite permissions from the A P State Forest Department.

The first party will arrange to obtain all necessary certificates of Graded Red sanders wood from the appropriate authority as and when required for transportation and export of Red sanders wood.

The First Party will arrange CITES clearance for the export of Red Sanders wood in log form.

VII. Statutory Taxes:

The second party agrees to pay all the requisite taxes, as per the provisions of APGST, VAT, Income Tax and other allied taxes there of in force from time to time on the graded RS Wood, imposed by the statutory authorities of Government of Andhra Pradesh, Central Government and Local authorities, as the case may be.

The second party agrees to pay THE NATIONAL BIO-DIVERSITY AUTHORITY / STATE BIO-DIVERSITY AUTHORITY -ABS FEES over and above sale amount.

IX. Demurrage:

The first party shall be indemnified for any losses if it is not able to make agreed supplies of Graded Red sanders wood due to any reason beyond its control / natural calamities, fire etc.

Similarly, the second party cannot be made responsible for the damage caused if any due to liability to lift the stock due to reasons beyond its control, such as change of Laws, War, Riots, Strikes theft, deterioration, fire, flood, extremists, damage etc.

The first party shall not be held liable or responsible for any of the damages, deterioration, loss in weight etc. if any caused from the date of handing over.

X. Weighment of Graded RS Wood Material and Quality of material:

The First Party will request the PCCF to arrange for weighment of each grade in the RS wood Depot itself before loading of Red Sanders wood logs in the lorries in the presence of concerned Forest officials and Representative of Second Party and record

the weighment in the transport permit issued by the competent authority.

The Second Party specifically agrees and accepts fully and completely the quality/grade of the logs, and measurements done by the Forest Department, Government of Andhra Pradesh as absolutely correct.

If there is Driage in weight of each e-lot upto 5% of the notified weight resulting in shortage in weight shall be ignored and no representation in this regard will be entertained. If shortage in weight of the lot is found to be more than 5% of the notified weight the same shall be brought to the notice of the concerned Conservator of Forests, who shall check the weight and submit the detailed report to Government of A.P. for further orders.

In case the weight of Red Sanders wood delivered is more than the quantity sold, pertaining to the e-auction LOT/LOTS, the buyer has to pay the additional amount at the rate at which e-auction lot has been sold to the second party for the additional quantity to the First party.

Second Party cannot raise any complaints or claims in future, in this regard on any ground whatsoever.

XI. Affixing of Hammer mark:

The First Party will request the PCCF to arrange for affixing hammer mark/seal of the respective RS Wood Timber depot to be made on each and every log before lifting of the Red Sanders wood logs from the different depots of Forest Department.

XII. General:

The Andhra Pradesh Forest Act, 1967 and the rules made there under from time to time in so far as they are applicable to this

Agreement and also the conditions laid down in e-tender cum e-auction terms and conditions (STC) vide Rc no _____ dated _____ and also General terms and conditions (GTC) issued by the Principal Chief Conservator of Forests shall form part and parcel of these terms and conditions and be deemed to have been incorporated in these presents.

Further, the conditions laid down in Possession of Red Sanders wood Rules, Red Sanders wood Transit Rules 1969 shall also be made applicable to the current Agreement.

The provisions of the Sale of Goods Act. 1930 as amended from time to time shall also apply to the agreement.

XIII) **PERIOD OF CONTRACT:** The validity period of the Contract is as per the orders issued by GOVT /APFD .

XIV) Arbitration:

If any question or dispute shall, at any time arises between the Parties with regard to effect of supply and clauses referred to or the rights or liabilities of the parties here to, the same shall be referred to the sole Arbitrator, i.e. the Special Chief Secretary to Government, Environment, Forests, Science & Technology Depart, A P Secretariat, Hyderabad, whose decision shall be final and binding on both the Parties.

All the litigations / disputes, if any arise, the jurisdiction is limited to the City of Hyderabad, Andhra Pradesh, India, for which both the Parties are binding.

The Arbitration and Reconciliation Act 1996 will also hold good in addition to the above clauses.

XV: Address for Communication:

For all correspondence and communication, the address given in the agreement will be final and binding on both the parties. It

is the responsibility of the **Second Party** to receive all such correspondence from time to time.

XVI. FORCE MAJEURE:

The first party Ltd will not be liable for any failure or delay in performance due to any cause beyond their control including but not limited to Fires, Floods, Strikes, Go-Slow, Lock-outs, closure, Pestilence, Industrial unrest, Epidemics, Political upheavals, Government action, Civil commotion, Breakdown of machinery, shortage of labour, Acts of God etc. It will be the sole discretion of APFD to extend time of performance after cause of delay have ceased to exist. The provisions aforesaid shall not be limited or abrogated by any other terms of contract whether printed or written.

XVII) TERMINATION

On breach of all or any of the stipulations and conditions of this agreement to be observed by the second party, the first party shall be entitled to cancel this agreement by giving one month notice.

IN WITNESS WHEREOF the first and second parties have hereto, respectively set their hands with free will and consent and in sound health on this the __ day of ____, 2014 at Hyderabad.

WITNESSES :

1)

FIRST PARTY

2)

SECOND PARTY

