

# **PURCHASE ORDER TERMS & CONDITIONS**

## **Columbia Forest Products, Inc. – 1/10**

The following are Columbia Forest Products, Inc.'s standard terms and conditions, which will apply to all of our purchase orders, unless we have entered into a separate written agreement. Please retain a copy for your files. These terms and conditions do not take precedence over any existing CFP contract.

As used below, "Seller" includes Seller, its subsidiaries and other affiliated entities; "CFP" includes Columbia Forest Products, Inc. and its subsidiaries, including those operating in Canada (the "Canadian Columbia Companies"), and other affiliated entities. Seller and CFP agree as follows:

### **1. GOODS & SERVICES.**

Seller agrees to perform the services ("Services") and/or provide the goods ("Goods") described in any purchase order in accordance with the applicable purchase order and with these Terms and Conditions (collectively, "Agreement"). This Agreement may not be added to, modified, superseded or otherwise altered, except by writing signed by an authorized CFP representative.

Upon acceptance of a purchase order, commencement of work on Goods, shipment of Goods or commencement of a Service, Seller will be bound by the provisions of this Agreement. Any proposal for additional or different terms or any attempt by Seller to vary in any degree any of the terms of this offer in Seller's acceptance is objected to and rejected, but such proposals will not operate as a rejection of this offer unless such variances are in the terms of the description, quantity, price, or delivery schedule of the goods, but will be deemed a material alteration and this offer will be deemed accepted by Seller without the additional or different terms. If this purchase order is deemed an acceptance of a prior offer by Seller, the acceptance is limited to the express terms contained in this Agreement. Additional or different terms or any attempt by Seller to vary in any degree any of the terms of this Agreement will be deemed material and are objected to and rejected, but this Agreement will not operate as a rejection of the Seller's offer unless it contains variances in the terms of the description, quantity, price, or delivery schedule of the Goods.

CFP reserves the right to reschedule any delivery or cancel any purchase order issued at any time prior to commencement of work on Goods or shipment of the Goods, which ever occurs earlier, or prior to commencement of any Services. CFP will not be subject to any charges or other fees as a result of such cancellation.

Seller acknowledges that where any Goods or Services ordered by CFP hereunder but delivered or provided to a Canadian Columbia Company constitutes a sale or a taxable supply to that company for purposes of any sales or value-added tax imposed by a taxation authority in Canada: (1) Seller shall provide full information required for compliance with the tax legislation in question including, without limitation, vendor identification numbers; and, (2) upon request, at no charge or delay, Seller shall provide supplementary or additional invoices in a form and containing such information as may be needed to ensure that CFP complies with tax legislation and that CFP can obtain input tax credits in relation to each supply of Goods or Services.

### **2. DELIVERY.**

Time is of the essence for performance of all of Seller's duties to CFP. Delivery of Goods will be made pursuant to the schedule, via the carrier and to the place specified on the face of the applicable purchase order. Shipping and delivery of the Goods will be F.O.B. destination unless otherwise specified on the face of the purchase order. CFP reserves the right to return, shipping charges collect, all Goods received in advance of the delivery schedule. If no delivery schedule is specified, the order will be filled promptly and delivery will be made by the most expeditious form of land transportation. If no method of shipment is specified in the purchase order, Seller will select the most cost effective carrier given the time constraints known to Seller. In the event Seller fails to deliver the Goods within the time specified, CFP may, at its option, decline to accept the Goods and terminate the Agreement or may demand its allocable fair share of Seller's available Goods and terminate the balance of the Agreement. Seller will package all items in suitable containers to permit safe transportation and handling. Each delivered container must be labeled and marked to identify contents without opening and all boxes and packages must contain packing sheets listing contents. CFP's purchase order number must appear on all shipping containers, packing sheets, delivery tickets and bills of lading.

### **3. IDENTIFICATION, RISK OF LOSS & DESTRUCTION OF GOODS.**

Seller assumes all risk of loss until receipt by CFP. Title to the Goods will pass to CFP upon receipt by it of the Goods at the designated destination. If the Goods ordered are destroyed prior to title passing to CFP, CFP may at its option cancel the Agreement or require delivery of substitute Goods of equal quantity and quality. Such delivery

will be made as soon as commercially practicable. If loss of Goods is partial, CFP will have the right to require delivery of the Goods not destroyed.

#### **4. PAYMENT.**

As full consideration for the performance of the Services, delivery of the Goods and the assignment of rights to CFP as provided in this Agreement, CFP will pay Seller (i) the amount agreed upon and specified in the applicable purchase order, or (ii) Seller's quoted price on date of shipment (for Goods), or the date Services were started (for Services), whichever is lower. Applicable taxes and other charges such as shipping costs, duties, customs, tariffs, imposts and government imposed surcharges will be stated separately on Seller's invoice. Payment is made when CFP's check is mailed. Payment will not constitute acceptance.

All personal property taxes and other charges such as duties, customs, tariffs, imposts and government imposed surcharges assessable upon the Goods prior to or upon receipt by CFP of Goods conforming to the purchase order will be borne by Seller. Seller will invoice CFP for all Goods delivered and all Services actually performed. Each invoice submitted by Seller must be provided to CFP within ninety (90) days of completion of the Services or delivery of Goods and must reference the applicable purchase order, and CFP reserves the right to return all incorrect invoices. Unless otherwise specified on the face of a purchase order, CFP will pay the invoiced amount within sixty (60) days after receipt of a correct invoice. Seller will receive no royalty or other remuneration on the production or distribution of any products developed by CFP or Seller in connection with or based on the Goods or Services provided.

#### **5. WARRANTIES.**

**5.1 Services.** Seller represents and warrants that all Services will be completed in a professional, workmanlike manner, with the degree of skill and care that is required by current, good and sound professional procedures. Further, Seller represents and warrants that the Services will be completed in accordance with applicable specifications and will be correct and appropriate for the purposes contemplated in this Agreement. Seller represents and warrants that the performance of Services under this Agreement will not conflict with, or be prohibited in any way by, any other agreement or statutory restriction to which Seller is bound.

**5.2 Goods.** Seller warrants that all Goods provided will meet the quantity, descriptions and specifications in CFP's purchase order, will be new and will not be used or refurbished. Seller warrants that all Goods delivered will be free from defects in materials and workmanship and will conform to all applicable specifications for a period of twenty four (24) months from the date of delivery to CFP or for the period provided in Seller's standard warranty covering the Goods, whichever is longer. Seller agrees that it will make spare parts available to CFP for a period of five (5) years from the date of shipment at Sellers then current price, less applicable discounts. Additionally, Goods purchased will conform to all written and oral express warranties made by Seller's agents, and to all warranties provided for by the Oregon Uniform Commercial Code – Sales, including without limitation implied warranties of merchantability and fitness for a particular purpose. All warranties will be construed as conditions as well as warranties and will not be exclusive. Seller will furnish to CFP Seller's standard warranty and service guaranty applicable to the Goods. All warranties and Service guaranties will run both to CFP and to its customers. Seller will also extend all warranties it receives from its vendors to CFP. All warranties will survive any delivery, inspection, acceptance, payment, or resale of the Goods.

If CFP identifies a warranty problem with the Goods during the warranty period, CFP will promptly notify Seller of such problems and will return the Goods to Seller, at Seller's expense. Within five (5) business days of receipt of the returned Goods, Seller will, at CFP's option, either repair or replace such Goods, or credit CFP's account for the same. Replacement and repaired Goods will be warranted for the remainder of the warranty period or six (6) months, whichever is longer.

#### **6. INSPECTION.**

CFP will have a reasonable time after receipt of Goods or Service deliverables and before payment to inspect them for conformity to this Agreement, and Goods received prior to inspection will not be deemed accepted until CFP has run an adequate test to determine whether the Goods conform to the specifications of this Agreement. Use of a portion of the Goods for the purpose of testing will not constitute an acceptance of the Goods. If Goods tendered do not wholly conform with the provisions of this Agreement, CFP will have the right to reject such Goods. Nonconforming Goods will be returned to Seller freight collect and risk of loss will pass to Seller upon CFP's delivery to the common carrier.

#### **7. INDEPENDENT CONTRACTOR.**

CFP is interested only in the results obtained under this Agreement; the manner and means of achieving the results are subject to Seller's sole control. Seller is an independent contractor for all purposes, without express or implied authority to bind CFP by contract or otherwise. Neither Seller nor its employees, agents or subcontractors ("Seller's Assistants") are agents or employees of CFP, and therefore are not entitled to any employee benefits of CFP, including but not limited to, any type of insurance. Seller will be responsible for all costs and expenses incident to performing its obligations under this Agreement and will provide Seller's own supplies and equipment.

## **8. SELLER RESPONSIBLE FOR TAXES AND RECORDS.**

Seller will be solely responsible for filing the appropriate federal, state and local tax forms and paying all such taxes or fees, including estimated taxes and employment taxes, due with respect to Seller's receipt of payment under this Agreement. Seller further agrees to provide CFP with reasonable assistance in the event of a government audit. CFP will have no responsibility to pay or withhold from any payment to Seller under this Agreement, any federal, state or local taxes or fees.

## **9. INSURANCE.**

Seller will be solely responsible for maintaining and requiring Seller's Assistants to maintain such adequate health, auto, workers' compensation, unemployment compensation, disability, liability, and other insurance, as is required by law or as is the common practice in Seller's and Seller's Assistants' trades or businesses, whichever affords greater coverage. Upon request, Seller will provide CFP with certificates of insurance or evidence of coverage before commencing performance under this Agreement. Seller will provide adequate coverage for any CFP property under the care, custody or control of Seller or Seller's Assistants.

## **10. INDEMNITY.**

Seller will indemnify, hold harmless and, at CFP's request, defend CFP and its officers, directors, shareholders, customers, agents and employees (collectively, "CFP Affiliates"), for, from and against all claims, liabilities, damages, losses and expenses, including attorneys' fees and cost of suit (including, without limitation, a proceeding in bankruptcy) arising out of or in any way connected with the Goods or Services provided under this Agreement, including, without limitation, (a) any claim based on the death or bodily injury to any person, destruction or damage to property, or contamination of the environment and any associated clean up costs, (b) Seller failing to satisfy the Internal Revenue Service's guidelines for an independent contractor, (c) any claim based on the negligence, omissions or willful misconduct of Seller or any Seller's Assistants, (d) any breach by Seller of this Agreement and (e) any claim by a third party against CFP alleging that the Goods or Services, the results of such Services, or any other products or processes provided under this Agreement, infringe a patent, copyright, trademark, trade secret or other proprietary right of a third party, whether such are provided alone or in combination with other products, software or processes. Seller will not settle any such suit or claim without CFP's prior written approval. Seller agrees to pay or reimburse all costs that may be incurred by CFP or any CFP Affiliate in enforcing this indemnity, including attorneys' fees.

Should CFP's use, or use by its distributors, subcontractors or customers, of any Goods or Services purchased from Seller be enjoined, be threatened by injunction, or be the subject of any legal proceeding, Seller will, at its sole cost and expense, either (a) substitute fully equivalent non-infringing Goods or Services; (b) modify the Goods or Services so that they no longer infringe but remain fully equivalent in functionality; (c) obtain for CFP, its distributors, subcontractors or customers the right to continue using the Goods or Services; or (d) if none of the foregoing is possible, refund all amounts paid for the infringing Goods or Services.

## **11. CONFIDENTIALITY.**

Seller will acquire knowledge of CFP Confidential Information (as defined below) in connection with its performance under this Agreement and agrees to keep such CFP Confidential Information in confidence during and following termination or expiration of this Agreement. "CFP Confidential Information" includes but is not limited to all information, whether written or oral, in any form, including without limitation, information relating to the research, development, products, methods of manufacture, trade secrets, business plans, customers, vendors, finances, personnel data, Work Product (as defined in this Agreement) and other material or information considered proprietary by CFP relating to the current or anticipated business or affairs of CFP which is disclosed directly or indirectly to Seller. In addition, CFP Confidential Information means any third party's proprietary or confidential information disclosed to Seller in the course of providing Services or Goods to CFP. CFP Confidential Information does not include any information (i) which Seller lawfully knew without restriction on disclosure before CFP disclosed it to Seller, (ii) which is now or becomes publicly known through no wrongful act or failure to act of Seller, (iii) which Seller developed independently without use of the CFP Confidential Information, as evidenced by appropriate documentation, or (iv) which is lawfully furnished to Seller by a third party as a matter of right and

without restriction on disclosure. In addition, Seller may disclose Confidential Information which is required to be disclosed pursuant to a requirement of a government agency or law so long as Seller provides prompt notice to CFP of such requirement prior to disclosure.

Seller agrees not to copy, alter or directly or indirectly disclose any CFP Confidential Information. Seller will not advertise or publish the fact that CFP has contracted to purchase Goods or Services from Seller. Additionally, Seller agrees to limit its internal distribution of CFP Confidential Information to Seller's Assistants who have a need to know, and to take steps to ensure that the dissemination is so limited, including the execution by Seller's Assistants of nondisclosure agreements with provisions substantially similar to those set forth in this Agreement. In no event will Seller use less than the degree of care and means that it uses to protect its own information of like kind, but in any event not less than reasonable care to prevent the unauthorized use of CFP Confidential Information.

Seller further agrees not to use the CFP Confidential Information except in the course of performing Seller's obligations under this Agreement and will not use CFP Confidential Information for its own benefit or for the benefit of any third party. The mingling of the CFP Confidential Information with information of Seller will not affect the confidential nature or ownership of the CFP Confidential Information. Seller agrees not to design or manufacture any products which incorporate CFP Confidential Information. All CFP Confidential Information is and will remain the property of CFP. Upon CFP's written request or the termination of this Agreement, Seller will return, transfer or assign to CFP all CFP Confidential Information.

## **12. OWNERSHIP OF WORK PRODUCT.**

For purposes of this Agreement, "Work Product" will include, without limitation, all designs, discoveries, creations, works, devices, masks, models, work in progress, Service deliverables, inventions, products, computer programs, procedures, improvements, developments, drawings, notes, documents, business processes, information and materials made, conceived or developed by Seller alone or with others which result from or relate to the Services performed under this Agreement. Standard Goods manufactured by Seller and sold to CFP without having been designed, customized or modified for CFP do not constitute Work Product. All Work Product will at all times be and remain the sole and exclusive property of CFP. Seller agrees to irrevocably assign and transfer to CFP and does assign and transfer to CFP all of its worldwide right, title and interest in and to the Work Product including all associated intellectual property rights. CFP will have the sole right to determine the treatment of any Work Product, including the right to keep it as trade secret, execute and file patent applications on it, to use and disclose it without prior patent application, to file registrations for copyright or trademark in its own name or to follow any other procedure that CFP deems appropriate. Seller agrees: (a) to disclose promptly in writing to CFP all Work Product in its possession; (b) to assist CFP in every reasonable way, at CFP's expense, to secure, perfect, register, apply for, maintain, and defend for CFP's benefit all copyrights, patent rights, mask work rights, trade secret rights, and all other proprietary rights or statutory protections in and to the Work Product in CFP's name as it deems appropriate; and (c) to otherwise treat all Work Product as CFP Confidential Information as described above. These obligations to disclose, assist, execute and keep confidential survive the expiration or termination of this Agreement. All tools and equipment supplied by CFP to Seller will remain the sole property of CFP.

Seller will ensure that Seller's Assistants appropriately waive any and all claims and assign to CFP any and all rights or any interests in any Work Product or original works created in connection with this Agreement. Seller irrevocably agrees not to assert against CFP or its direct or indirect customers, assignees or licensees any claim of any intellectual property rights of Seller affecting the Work Product.

CFP will not have rights to any works conceived or reduced to practice by Seller which were developed entirely on Seller's own time without using equipment, supplies, facilities or trade secret or CFP Confidential Information, unless (i) such works relate to CFP's business, or CFP's actual or demonstrably anticipated research or development, (ii) such works result from any Services performed by Seller for CFP, or (iii) such works were developed, designed, commissioned or modified to the order or specification of CFP.

## **13. TERMINATION.**

**13.1 Termination by CFP for Convenience.** CFP may terminate this order or any part of it for its sole convenience upon notice to Seller. In the event of such termination, Seller will immediately stop all work under this Agreement, and will immediately cause any of its suppliers or subcontractors to cease such work. CFP will pay Seller a reasonable termination charge, consisting of a percentage of the order price reflecting the percentage of the work performed prior to the notice of termination, plus actual direct costs resulting from termination. CFP will not pay for any work done after notice of termination, nor for any costs incurred by Seller's suppliers or subcontractors which Seller could reasonably have avoided. Any claim for termination charges, along with a summary of all mitigation efforts, must be submitted to CFP in writing within thirty (30) days after receipt of CFP's termination notice. Upon payment of Seller's claim, CFP will be entitled to all work and materials paid for.

**13.2 Termination by CFP for Cause.** CFP may terminate this Agreement if Seller files a petition in bankruptcy, becomes insolvent, or dissolves, and, upon written notice to Seller, if Seller fails to perform or otherwise breaches this Agreement. In the event of such termination, CFP will pay Seller for the portion of the Services satisfactorily performed and those conforming Goods delivered to CFP through the date of termination, less appropriate offsets, including any additional costs to be incurred by CFP in completing the Services.

**13.3 Termination by Seller.** Seller may terminate this Agreement upon written notice to CFP if CFP fails to pay Seller within sixty (60) days after Seller notifies CFP in writing that payment is past due.

Upon the expiration or termination of this Agreement for any reason: (a) each party will be released from all obligations to the other arising after the date of expiration or termination, except for those which by their terms survive such termination or expiration; and (b) Seller will promptly notify CFP of all CFP Confidential Information or any Work Product in Seller's possession and, at the expense of Seller and in accordance with CFP's instructions, will promptly deliver to CFP all such CFP Confidential Information and/or Work Product.

#### **14. CFP REMEDIES.**

If Seller breaches this Agreement, CFP will have all remedies available by law and at equity.

#### **15. FORCE MAJEURE.**

CFP will not be liable for any failure to perform including failure to (a) accept performance of Services or, (b) take delivery of the Goods as provided, caused by circumstances beyond its control which make such performance commercially impractical including, but not limited to, acts of God, fire, flood, acts of war, government action, accident, labor difficulties or shortage, inability to obtain materials, equipment or transportation. In the event CFP is so excused, either party may terminate the Agreement and CFP will at its expense and risk, return any Goods received to the place of shipment.

#### **16. SEVERABILITY.**

If any provision of this Agreement is deemed to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired.

#### **17. LIMITATIONS OF CFP'S LIABILITY AND SELLER'S REMEDIES; TIME LIMITATION FOR CLAIMS.**

IN NO EVENT WILL CFP BE LIABLE TO SELLER OR SELLER'S ASSISTANTS, OR ANY THIRD PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF, OR IN CONNECTION WITH, THIS AGREEMENT, OF ANY TYPE WHATSOEVER, INCLUDING WITHOUT LIMITATION ANY OF SELLER'S LOST REVENUES, LOST PROFITS, LOSS OF CONTRACTS OR BUSINESS, WHETHER OR NOT CFP WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

Any action resulting from any breach on the part of CFP as to the Goods or Services delivered under this Agreement must be commenced within one year after the cause of action has accrued.

#### **18. ASSIGNMENT; WAIVER.**

Seller may not assign or subcontract this Agreement or any of its rights or obligations under this Agreement, without the prior written consent of CFP. Any assignment, subcontract or transfer without such written consent will be null and void. This Agreement will inure to the benefit of, and be binding upon, the successors and assigns of CFP without restriction. A waiver of any default under this Agreement or of any term or condition of this Agreement will not be deemed to be a continuing waiver or a waiver of any other default or any other term or condition.

#### **19. NOTICES.**

Except for Purchase Orders which may be sent by local mail, facsimile transmission, or electronically transmitted, all notices, and other communications under this Agreement will be in writing, and will be addressed to Seller or to an authorized CFP representative, and will be considered given when (a) delivered personally, (b) sent by confirmed telex or facsimile, (c) sent by commercial overnight courier with written verification receipt, or (d) three (3) days after having been sent, postage prepaid, by first class or certified mail.

## **20. SURVIVAL OF OBLIGATIONS.**

Any obligations and duties which by their nature extend beyond the expiration or termination of this Agreement will survive the expiration or termination of this Agreement.

## **21. GOVERNING LAW; ARBITRATION.**

This Agreement will be construed in accordance with, and disputes will be governed by, the laws of the State of Oregon, excluding its conflict of law rules. The applicability of the UN Convention on Contracts for the International Sale of Goods is expressly waived by the parties and it will not apply to the terms and conditions of this Agreement.

Any conflict, claim, or dispute between the parties arising under or related in any way to this Agreement, or any breach of this Agreement, or any claim that any of this Agreement is invalid, illegal, voidable or void, or any other claim relating to either parties' performance or non-performance of this Agreement, will be subject to mandatory, binding arbitration under the authority of the American Arbitration Association ("AAA"). The arbitration will be conducted using AAA's then-existing Commercial Arbitration Rules. The location of the arbitration will be, at CFP's election, in either Portland, Oregon or Greensboro, North Carolina. The arbitration award may be entered in any court with jurisdiction. At the request of either party prior to the arbitration award, the arbitrator[s] will make written findings of fact and conclusions of law as part of the award. Each party will pay all applicable fees and costs billed by the AAA prior to arbitration, including without limitation the fees and expenses of the arbitrator[s].

## **22. ENTIRE AGREEMENT; MODIFICATION.**

This Agreement is the complete, final and exclusive statement of the terms of the agreement between the parties and supersedes any and all other prior and contemporaneous negotiations and agreements, whether oral or written, between them relating to the subject matter of this Agreement. This Agreement may not be varied, modified, altered, or amended except in writing, including a purchase order or a change order issued by CFP, signed by the parties. The terms and conditions of this Agreement will prevail notwithstanding any variance with the terms and conditions of any acknowledgment or other document submitted by Seller. Notwithstanding the foregoing, this Agreement will not supersede or take the place of any written agreement which is signed by both parties and covers the same subject matter as this Agreement or its related purchase orders.

## **23. COMPLIANCE WITH LAWS.**

**23.1 General.** Seller will comply fully with all applicable federal, state and local laws in the performance of this Agreement including, but not limited to, all applicable employment, tax, export control and environmental laws.

**23.2 Equal Employment Opportunity.** CFP is a government contractor and is subject to the requirements of Executive Order 11246 and the Rehabilitation Act of 1973 (as amended). Pursuant to these requirements, the Equal Employment Opportunity Clauses required by Executive Order 11246 and Section 503 of the Rehabilitation Act (as amended), which can be found at 41 CFR sections 60-1.4(a) (1-7) and 60-741.5 (a), are incorporated in this Agreement by reference as though set forth in full, and are made an express part of this Agreement. In addition, the Equal Employment Opportunity Clause required under the Vietnam Era Veteran's Readjustment Assistance Act (as amended), which can be found at 41 CFR 60-250 (5)(a), is incorporated in this Agreement by reference as though set forth in full and is made an express part of this Agreement. Seller will comply with the following Federal Acquisition Regulations: (i) FAR 52.222-26 "Equal Opportunity", (ii) FAR 52.222-35 "Affirmative Action for Special Disabled and Vietnam Veterans", and (iii) FAR 52.222-36 "Affirmative Action for Handicapped Workers."

**23.3 Customs.** Upon CFP's request, Seller will promptly provide CFP with a statement of origin for all Goods and United States Customs documentation for Goods wholly or partially manufactured outside of the United States (or Canadian customs documentation for Goods purchased by a Canadian Columbia Company and wholly or partially manufactured outside of Canada).

**23.4 Hazardous Materials.** Seller will comply with all laws relating to Hazardous Materials. "Hazardous Materials" are or contain dangerous goods, chemicals, contaminants, substances, pollutants, petroleum products or any other materials that are defined as hazardous or toxic by relevant local, state, federal, national, or international laws, regulations, and standards. If Goods or any Services provided under this Agreement include Hazardous Materials, Seller represents and warrants that Seller and its personnel providing services to CFP understand the nature of and hazards associated with the design and/or service of Items including handling, transportation, use and disposal of such Hazardous Materials, as applicable to Seller and Seller has all necessary licenses and permits. Prior to causing Hazardous Materials to be on CFP's property, Seller will obtain written approval from CFP. Seller will be responsible for and indemnify CFP from any liability resulting from the actions of Seller or its contractors in

connection with: (i) providing such Hazardous Materials to CFP; and/or (ii) the use or disposal of such Hazardous Materials in providing services to CFP.

Seller will timely provide CFP with material safety data sheets and any other documentation reasonably necessary to enable CFP to comply with applicable laws and regulations or reasonably requested by CFP.

**23.5 Lacey Act.** Seller guarantees, represents and warrants to CFP that any plant or plant product, including any part thereof or ingredient therein, sold under this Agreement complies with the Lacey Act, 16 U.S.C. § 3371-3376, and any related laws or regulations. This includes assurances that any plant or plant product to be supplied, imported, exported, transported, sold, received, acquired, or purchased has not been harvested, taken, possessed, transported, or sold in violation of any laws, including foreign laws, that (1) protect plants; (2) regulate the theft of plants; (3) regulate the taking of plants from a park, forest reserve, or other officially protected or designated areas; (4) regulate the taking of plants without, or contrary to, required authorizations; (5) require payment of appropriate royalties, taxes, or stumpage fees for the plant(s) or plant product(s); or (6) govern the export or transshipment of the plant(s) or plant product(s).

Seller agrees to label and declare any plant or plant product sold under this Agreement in accordance with all applicable laws and regulations, including but not limited to the Lacey Act's provisions on labeling, 16 U.S.C. § 3372(d), and filing declarations, 16 U.S.C. § 3372(f). Seller acknowledges and accepts that its failure to comply with the laws and regulations applicable to this transaction, and specifically the Lacey Act, may result in the assessment against CFP or a CFP Affiliate of substantial fines and penalties, as well as the seizure and/or forfeiture of non-complying plant(s) or plant product(s). Without limiting the other indemnification provisions in this Agreement, Seller agrees to defend, hold harmless and indemnify CFP and any CFP Affiliate for, from and against any claims, enforcement actions, losses, fines, civil forfeitures, costs, expenses or charges, including reasonable attorney fees, that CFP or any CFP Affiliate incurs as a result of Seller's action or failure to act in compliance with the Lacey Act.

Seller agrees to cooperate with any investigations or enforcement proceedings by agencies or other government authorities that relate to any plant or plant product in this transaction. In the event any plant or plant product is seized or forfeited by any government authorities due to Seller's action or inaction described above, CFP will be entitled to (1) the amount paid for the plant(s) or plant product(s), or (2) replacement plant(s) or plant product(s) of similar or better quality.