

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF LOUISIANA

IN RE: CASE NO. 16-12645  
FORMOSA PLANTATION, LLC SECTION "A"  
DEBTOR CHAPTER 11

**MOTION FOR ORDER (I) APPROVING THE SALE OF TIMBER FREE AND CLEAR OF LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363(b), (II) AUTHORIZING THE DEBTOR, *NUNC PRO TUNC*, TO EXECUTE AND APPROVING TIMBER DEED AGREEMENT AND CONTRACT OF PURCHASE AND SALE, (III) AUTHORIZING THE EMPLOYMENT OF AND APPROVING PAYMENT OF COMMISSIONS TO TIMBERLAND SERVICES, LLC AND FLASHPOINT AGENCY, LLC, AND (IV) AUTHORIZING ESCROW AND DISTRIBUTION OF PROCEEDS OF SALE AND USE OF CASH COLLATERAL AND GRANTING REPLACEMENT LIENS AND SUPER-PRIORITY ADMINISTRATIVE CLAIM PURSUANT TO SECTIONS 363(c) and 503(b) AND FEDERAL RULE OF BANKRUPTCY PROCEDURE 4001(b)**

NOW INTO COURT, through undersigned counsel, comes Formosa Plantation, LLC (the "*Debtor*"), which respectfully requests entry of an order by this Court (i) authorizing and approving the sale of certain timber located on a tract of land located in Tensas Parish, Louisiana to Rives and Reynolds Lumber Company, Inc. ("*Purchaser*") free and clear of liens, claims and encumbrances pursuant to the Timber Deed agreement and Contract of Purchase and Sale entered into and executed on March 9, 2017 (together, the "*Purchase Agreement*"); (ii) authorizing and approving the execution of the Purchase Agreement *nunc pro tunc* to March 2, 2017; (iii) authorizing the employment and payment of fees and commissions to Timberland Services, LLC as broker and Flashpoint Agency, LLC as agent for the Debtor pursuant to the terms of the Purchase Agreement; and (iv) authorizing the distribution of the proceeds of the Purchase Agreement including the establishment of an escrow account and use of cash collateral

and granting replacement liens and super-priority administrative claim; and in support of same state as follows:

### **JURISDICTION AND VENUE**

1.

This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334. The subject matter of this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409. The predicates for the relief requested herein including Bankruptcy Rules 4001 and 6004 and 11 U.S.C. §§ 363 and 503(b).

2.

No previous application for the relief sought herein has been made by the Debtor to this or any other court.

### **FACTUAL BACKGROUND**

#### **The Debtor's Chapter 11 Case**

3.

On October 26, 2016 (the "*Petition Date*"), the Debtor commenced a voluntary bankruptcy case under Chapter 11, Title 11 of the United States Code (the "*Bankruptcy Code*"). The Debtor continues to operate its business and manage its properties as debtor-in-possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code.

#### **The Property**

4.

The Debtor hold titles to a certain parcels of real estate totaling in excess of five (500) acres located Tensas Parish, Louisiana (the "*Property*"). There is a considerable amount of old

growth timber located on the Property (the "**Timber**").

5.

The mortgage and conveyance records of Tensas Parish, Louisiana indicate that the Property is encumbered by a first position mortgage in favor of Louisiana Federal Land Bank Association, FLCA ("**Land Bank**") as security for certain obligations of the Debtor, and a purported second position mortgage in favor of South Lafourche Bank & Trust Company ("**SLB**"). However, the mortgage of SLB against the Property is subject to avoidance for those reasons set forth in Adversary Proceeding No. 17-01001 pending before this Court.

6.

The multiple indebtedness mortgage in favor of Land Bank includes a grant of security interest in "all crops, timber, and minerals located on the Property." See paragraph 29 at Page 9 of 12 of the Multiple Indebtedness Mortgage dated May 16, 2006 attached hereto as Exhibit A ("**Land Bank Mortgage**"). The Land Bank Mortgage secures payment of amounts due pursuant to certain Promissory Notes dated May 16, 2006 and August 22, 2008 which provide for monthly payments respectively of \$1,141.09 and \$1,378.15 (together, the "**Land Bank Notes**"). The Land Bank Notes are attached hereto as Exhibit B. Upon information and belief, as of the Petition Date the outstanding balance owed on the Land Bank Notes was approximately \$375,944.37 and the total past due balance was \$7,761.72.

7.

The Land Bank also filed a UCC-1F agricultural lien financing statement including the following description of collateral:

Standing timber, timber to be cut therefrom, cut timber therefrom and any resulting proceeds, expressly including any and all additions, substitutions or replacements now owned or hereafter acquired, located in, on or about the hereinbelow described property.

See UCC-1F filed on May 17, 2006 and continuations filed on April 18, 2011, and January 4, 2016 attached hereto, *in globo*, as Exhibit C.

8.

The purported mortgage in favor of SLB does not grant a security interest in the Timber and SLB has not filed any UCC-1F with respect to the Timber.

9.

Prior to the Petition Date, the Debtor and its principals made efforts to market and sell the Timber. Additionally, the principals of the Debtor engaged Flashpoint Agency, LLC and Steven Jasmin to assist them in connection with same and other financial planning and advice. After the Petition Date and as result of the efforts of Flashpoint Agency, LLC and Timberland Services, LLC, the Debtor entered into the Purchase Agreement. See Purchase Agreement attached hereto as Exhibit D.

10.

The Purchase Agreement provides for the sale of the Timber in exchange for an advance deposit of \$100,000 and payment for the timber on a periodic basis at the following rates:

Red Oak	\$350 per thousand board feet
Ash	\$350 per thousand board feet
Pecan	\$185 per thousand board feet
White Oak	\$250 per thousand board feet

Additionally, the Purchase Agreement provides that the Purchaser shall have eighteen months from the execution of the Purchase Agreement to cut and remove all timber sold and conveyed pursuant thereto. See Exhibit D.

11.

The Purchase Agreement provides for the payment of a ten percent (5%) commission to Timberland Services, LLC and a one percent (1%) commission to Flashpoint Agency, LLC from the payments to Debtor pursuant to the Purchase Agreement (the “*Commissions*”). The Debtor submit that the proposed Commissions are standard and customary in similar transactions and are otherwise reasonable under the circumstances.

12.

Based on the Purchase Agreement, the Debtor seeks authority, *nunc pro tunc* to the Petition Date, to employ Timberland Services, LLC an broker and Flashpoint Agency, LLC as agent to procure and submit to the Debtor offers to purchase the Timber.

13.

To the best of the Debtor’s knowledge and belief, Timberland Services, LLC and Flashpoint Agency, LLC, their partners, managers, associates and other professionals do not represent or hold any interest adverse to the Debtor or the Debtor’s estate and are disinterested persons.

14.

The Debtor believes and alleges that the employment of the Timberland Services, LLC and Flashpoint Agency, LLC on the terms and conditions provided in the Purchase Agreement is in the best interests of the Debtor and its estate.

15.

On or about March 2, 2017, the Debtor entered into and executed the Purchase Agreement with the Purchaser, subject to bankruptcy court approval.

16.

The Debtor proposes that forty percent (40%) of the gross proceeds of the advance deposit shall be applied first in satisfaction of all pre-petition and post-petition past due amounts (approximately \$23,285.16) and then the remainder (approximately \$16,714.84) deposited into an interest-bearing escrow account with Land Bank for payment of six (6) months of interest and principal due pursuant to the Land Bank Notes. Furthermore, up to forty percent (40%) of all subsequent net proceeds paid pursuant to the Purchase Agreement shall be used to replenish the escrow account to such amount necessary to pay six (6) months interest and principal on the Land Bank Notes (approximately \$15,115.44). Additionally, the Land Bank should be granted adequate protection for the use and diminution of cash collateral by the granting of replacement lien and super-priority administrative claim.

**RELIEF REQUESTED AND GROUNDS FOR RELIEF**

17.

The Debtor seeks authority from this Court, in accordance with 11 U.S.C. §§ 363(b)(1) and 363(c)(2)(A) to sell the Timber and to use a portion of the proceeds thereto maintain its business operations and protect its ability to reorganize in accordance with Chapter 11 of the Bankruptcy Code. Additionally, the Debtor seeks approval of the establishment of an escrow account and granting of a replacement lien and super-priority administrative claim in favor of Land Bank as adequate protection for the use of and diminution of Land Bank's cash collateral.

**Authority to Sell the Timber**

18.

Section 363(b)(1) of the Bankruptcy Code provides, in relevant part, that a debtor, "after notice and hearing, may use, sell or lease, other than in the ordinary course of business, property

of the estate.” 11 U.S.C. §363(b). Although Section 363 of the Bankruptcy Code does not set forth a standard for determining when it is appropriate for a court to authorize the sale or disposition of a debtor’s assets, a sale of a debtor’s assets should be authorized when there is an articulated business justification for doing so. *See Licensing by Paolo v. Sinatra (In re Gucci)*, 126 F.3d 380, 387 (2d Cir. 1997); *see also In re Schipper*, 933 F.2d 513, 515 (7th Cir. 1991); *In re Telesphere Communications, Inc.*, 179 B.R. 544, 552 (Bankr. N.D. Ill. 1994); *Committee of Equity Sec. Holders v. Lionel Corp. (In re Lionel Corp.)*, 722 F.2d 1063, 1070 (2d Cir. 1983).

19.

Whether a sufficient business justification has been articulated in connection with a proposed transaction depends on the facts of the case. *See In re Continental Airlines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986). A bankruptcy court should consider “all salient factors pertaining to the proceeding and, accordingly, act to further the diverse interests of the debtor, creditors and equity holders alike.” *Continental*, 780 F.2d at 1226; *Lionel*, 722 F.2d at 1071. Relevant factors may include: “the proportionate value of the asset to the estate as a whole; the amount of elapsed time since the filing; the likelihood that a plan of reorganization will be proposed and confirmed in the near future; the effect of the proposed disposition on the future plan of reorganization; the amount of proceeds to be obtained from the sale versus appraised values of the property; and whether the asset is decreasing or increasing in value.” *See Continental*, 780 F.2d at 1226; *Lionel*, 722 F.2d at 1071; *In re Delaware & Hudson R.R. Co.*, 124 B.R. 169, 176 (D. Del. 1991); *In re Condere Corporation*, 228 B.R. 615, 628 (Bankr. S.D. Miss. 1998).

20.

Once a debtor has articulated a valid business justification, “a presumption [arises] that the officers and directors of a corporation, in making a business decision for that corporation, act only after they have been appropriately informed and after they have honestly determined that the action to be taken is in the best interest of the corporation.” *In re Performance Nutrition, Inc.*, 239 B.R. 93, 111 (Bankr. N.D. Tex. 1999). Then applying the “business judgment” standard, courts show deference to a debtor’s business decisions. *See, e.g., In re Tom’s Foods Inc.*, 2005 WL 3022022, \*2 (Bankr. M.D. Ga. 2005) (“courts are loath to interfere with corporate decisions absent a showing of bad faith, self-interest, or gross negligence”); *Atkins v. Hibernia Corp.*, 182 F.3d 320, 324 (5th Cir. 1999); *GBL Holding Co. v. Blackburn/Travis/Cole, Ltd. (In re State Park Bldg. Group, Ltd.)*, No. Civ. A. 3:04-CV-2411-M, 2009 WL 440379, \*2 (N.D. Tex. Feb. 23, 2009) (“great judicial deference is given to [the debtor in possession’s] exercise of business judgment”).

21.

The Debtor has determined that immediate consummation of the sale pursuant to the Purchase Agreement is the best way to maximize the value of the Debtor’s estate for the benefit of all constituencies.

22.

The Debtor asserts that the purchase prices for the Timber represents a fair value for the Timber.

23.

Based on the foregoing, the Debtor has determined in their sound business judgment that the sale of the Property on the terms and conditions set forth in the Purchase Agreement is fair



and reasonable and in the best interest of the Debtor's estate, its creditors, and all parties in interest in the Debtor's Chapter 11 case.

**Sale Free and Clear of Liens,  
Claims, Encumbrances, and Interests**

24.

Under section 363(f) of the Bankruptcy Code, a debtor in possession may sell property free and clear of any lien, claim, or interest in such property if, among other things:

- (i) applicable non-bankruptcy law permits sale of such property free and clear of such interest;
- (ii) such entity consents;
- (ii) such interest is a lien and the price at which the property is sold is greater than all liens on such property;
- (iv) such interest is in bona fide dispute; or
- (v) such entity could be compelled, in a legal or equitable proceeding, to accept money satisfaction of such interest.

25.

To facilitate the sale of the Timber and in compliance with the terms of the Purchase Agreement, the Debtor require authorization to sell the Timber free and clear of any and all liens, claims, encumbrances, or interests, with any such liens, claims, encumbrances, or interests to attach to the net proceeds of the sale with the same rights and priorities therein. Because Section 363(f) of the Bankruptcy Code is drafted in the disjunctive, satisfaction of any one of its five requirements is sufficient to permit the sale to be free and clear of all liens, claims, encumbrances, and interests (each, an "*Interest*"). Here, a "free and clear" sale is warranted

because, in each case, one or more of the standards set forth in sections 363(f)(1)-(5) of the Bankruptcy Code will be satisfied.

26.

Upon information and belief of the Debtor, Land Bank will not object to the relief requested herein, with their Interests attaching to the proceeds of the sale. However, those holders of Interests who do object fall within one or more of the other subsections of section 363(f) of the Bankruptcy Code and are adequately protected by having their Interests, if any, attach to the cash proceeds of the sale ultimately attributable to the property against or in which they claim an Interest. Accordingly, the Debtor requests that the Timber be sold to the Purchaser free and clear of all liens, claims, and encumbrances, with such liens, claims and encumbrances to attach to the proceeds of the sale.

**Good Faith Purchaser**

27.

Section 363(m) of the Bankruptcy Code provides that:

The reversal or modification on appeal of an authorization under subsection (b) or (c) of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. §363(m).

28.

The terms and conditions of the Purchase Agreement were negotiated by the Debtor and the Purchaser at arm's length and in good faith. The Purchaser is not affiliated with the Debtor. To the extent necessary, the Debtor will present evidence of proffer or testimony at the hearing on this Motion to prove the foregoing. Accordingly, the Debtor requests that the Court determine

the Purchaser to be acting in good faith and entitled to the protections of a good faith purchaser under Section 363(m) of the Bankruptcy Code.

**Need for Immediate Effect of Order and Without Stay**

29.

Bankruptcy Rule 6004(h) provides that an order authorizing the use, sale, or lease of property will be stayed for fourteen (14) days after entry of such approval orders unless the court orders otherwise. Therefore, the Debtor requests that the Court direct that the order approving this Motion shall not be automatically stayed for fourteen (14) days.

**Grant of Authority, *Nunc Pro Tunc* to the Petition Date, to Execute the Purchase Agreement and Authorization to Pay Commission**

30.

Based upon the foregoing, the Debtor requests that the Court grant authority, *nunc pro tunc*, authorizing the execution of the Purchase Agreement and employment of Timberland Services, LLC and Flashpoint Agency, LLC and authorizing the payment of the Commissions from the proceeds of the proposed sale of the Timber.

**Authority to Use Cash Collateral Under Section 363(c)(2)(A)**

31.

Section 363(c)(1) authorizes the trustee, or debtor-in-possession, to use property of the estate in the ordinary course of business without notice or a hearing. With respect to cash collateral, however, Section 363(c)(2) states:

The trustee may not use, sell, or lease cash collateral under paragraph (1) of this subsection unless—  
(A) each entity that has an interest in such cash collateral consents; or  
(B) the court, after notice and a hearing, authorizes such use, sale, or lease in accordance with the provisions of this section.

Under 363(c)(1)(A), this Court should grant the Debtor authority to use the cash collateral encumbered by Land Bank's security interest, because "each entity that has an interest in such cash collateral consents."

32.

The Debtor has satisfied the requirements for use of cash collateral set forth in Section 363(c)(2)(A). Land Bank is the only entity that has an interest in the proceeds of the proposed sale of the Timber, and the Debtor believes that Land Bank will consent to the Debtor's use of the proceeds of the sale of the Timber subject to the conditions referenced herein. Further, as discussed more fully below, the terms of the Debtor's proposed agreement with Land Bank to consent to use of its cash collateral and granting of a replacement lien are in accordance with Section 363(e) of the Bankruptcy Code, and are reasonable. Consequently, the Debtor has satisfied the requirements of Section 363(c)(1) for use of cash collateral.

**Adequate Protection of Land Bank's Rights in Cash Collateral Under Section 363(e)**

33.

The Debtor's proposed use of cash collateral is conditioned upon adequate protection of its interest pursuant to Section 363(e) of the Bankruptcy Code. Bankruptcy Code Section 363(e) provides that, upon request of an entity that has an interest in property to be used by a debtor, the Court shall "prohibit or condition such use... as is necessary to provide adequate protection of such interest."<sup>1</sup>

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<sup>1</sup>11 U.S.C. § 363(e).

34.

In order to determine the appropriate measure of adequate protection, the court must first determine the value of the secured creditor's interest in cash collateral.<sup>2</sup> In this matter, the proceeds of the proposed sale of the Timber would be the cash collateral of Land Bank.

35.

What constitutes adequate protection is determined on a case-by-case basis.<sup>3</sup> Adequate protection can be provided in a number of ways under Bankruptcy Code Section 361, with the focus being to protect a secured creditor from any diminution in the value of its interest in the collateral during the period during of its use post-petition. Regardless of the form of adequate protection given, the measure of adequate protection is determined by the extent of the anticipated or actual decrease in the value of the secured creditor's collateral during the bankruptcy case."<sup>4</sup> "Adequate protection" is not defined in the Bankruptcy Code, although Section 361 of the Bankruptcy Code sets forth three non-exclusive methods of how an interest in property may be adequately protected.<sup>5</sup> Pursuant to Section 361 of the Bankruptcy Code, a debtor may provide adequate protection by making a cash or periodic payment to the creditor or providing it with a replacement lien.<sup>6</sup>

36.

The proposed Replacement Lien is in accordance with Sections 363(e) and Section 361 of the Bankruptcy Code. By the Debtor's use of the proceeds of the proposed sale of the Timber, Land Bank may experience a diminution in the cash collateral in which it holds a security

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<sup>2</sup>*In re Martin*, 761 F.2d 472, 476-77 (8th Cir. 1985) (citing *In re George Ruggiere Chrysler-Plymouth, Inc.*, 727 F.2d 1017 (11th Cir. 1984)).

<sup>3</sup>See *In re Swedeland Development Group, Inc.*, 16 F.3d 552, 564 (3rd Cir. 1994); *In re O'Connor*, 808 F.2d at 1396-97.

<sup>4</sup>*In re First South Savings Assoc.*, 820 F.2d 700, 710 (5th Cir.1987).

<sup>5</sup>*Id.*; see also *In re Shriver*, 33 B.R. 176, 181 (Bankr. N.D. Ohio 1983).

<sup>6</sup>11 U.S.C. § 361.

interest. Land Bank's interest will be protected by obtaining the Replacement Lien and, subject to court approval, by obtaining a super priority administrative claim for diminution of such cash collateral, and sharing *pro rata* with any priority administrative expense claim.

37.

Specifically, the Debtor proposes that pursuant to Sections 363(e) and 503(b)(1) of the Bankruptcy Code, Land Bank be granted a replacement lien covering proceeds resulting from any future sales of Timber pursuant to the Purchase Agreement, as well as a super priority administrative claim to the extent of Land Bank's diminution of cash collateral. The proposed replacement lien and super-priority administrative claim will provide no less than and no greater than a replacement of the diminution of value of Land Bank's rights in existing cash collateral.

**Notice**

38.

Notice of this Motion and the sale has been provided to (i) the Office of the United States Trustee, (ii) counsel for Land Bank, (iii) parties appearing and requesting service, (iv) any party that has asserted or may have a lien and/or an interest in the Property and the Timber, (v) any party that is reasonably known to the Debtor to be entitled to assert a lien against the Property or the Timber, and (vi) all relevant federal, state and local regulatory or taxing authorities or recording offices that have the ability to impose a tax on or a charge or lien against the Property or the Timber.

**WHEREFORE**, the Debtor prays for entry of order (i) approving the sale of the Property to the Purchaser free and clear of all liens, claims, and interests and authorizing the Debtor to take all actions reasonably necessary to convey its interest in the Timber; (ii) authorizing and approving the execution of the Purchase Agreement *nunc pro tunc* to March 2, 1017; (iii)

authorizing the employment and payment of commissions to Timberland Services, LLC as broker and Flashpoint Agency, LLC as agent for the Debtor pursuant to the terms of the Purchase Agreement; and (iv) authorizing the distribution of the proceeds of the Purchase Agreement including the establishment of an escrow account and use of cash collateral and granting replacement liens and super-priority administrative claim; and (v) granting all such other and further relief as appropriate.

Respectfully Submitted,

LUGENBUHL, WHEATON, PECK,  
RANKIN & HUBBARD

/s/ Christopher T. Caplinger  
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*Attorneys for the Debtor*

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing has been served upon the parties identified below that receive electronic notice via the Court's CM/ECF system, as well as those parties listed on the attached service list via first class mail on this 21<sup>st</sup> day of March 2017.

Mark A. Begnaud on behalf of Creditor Louisiana Federal Land Bank Association,  
FLCA: [mbegnaud@mrbfirm.com](mailto:mbegnaud@mrbfirm.com)

Joseph Patrick Briggett on behalf of Debtor Formosa Plantation, LLC:  
[jbrigggett@lawla.com](mailto:jbrigggett@lawla.com), [mlopez@lawla.com](mailto:mlopez@lawla.com)

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Alan H. Goodman on behalf of Interested Party Lorraine Guilbeau  
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*/s/ Christopher T. Caplinger*



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McCoy Roberts & Begnaud, Ltd.  
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La. Federal Land Bank Assoc.  
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Tensas Water Distribution Assn.  
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Golden Meadow, LA 70357-2447

Office of U.S. Trustee  
400 Poydras Street, Ste. 2110  
New Orleans, La 70130

**TIMBER DEED**

BE IT KNOWN AND REMEMBERED, that on the dates hereafter stated, before the undersigned Notaries Public, duly commissioned and sworn, and in the presence of the undersigned legal and competent witnesses, personally came and appeared

**FORMOSA PLANTATION, L.L.C.**, a Louisiana limited liability company, whose mailing address is P. O. Box 747, Golden Meadow, LA 70357, appearing herein by Anthony J. Guilbeau, Jr., its authorized member, hereinafter referred to as "SELLER," and

**RIVES AND REYNOLDS LUMBER COMPANY, INC.**, a Mississippi corporation authorized to do business in the State of Louisiana, domiciled in Winston County, Mississippi, whose mailing address is 33 Vaughn Drive, Natchez, MS 39120, appearing herein by Bruce Reynolds, duly authorized to act herein, hereinafter referred to as "BUYER,"

who declared that they have and do hereby contract and agree as follows:

SELLER, in and for the consideration hereinafter set forth, does hereby bargain, sell, grant, convey, set over and deliver unto BUYER, with full warranty, all rights, title and interest of SELLER in and to all timber situated in and on the following land, to-wit:

The "Noonie" Guilbeau Tract located in west central Tensas Parish, Louisiana, T12N-R10E, Sections 21 and 21, T11N-R10E, Sections 27, 28 and 33, containing approximately 568 forested acres.

This sale and conveyance is made with full warranty of title and with all rights of subrogation against all former sellers and owners of the immovable property above described.

The consideration for this sale shall be that all timber licensed for cutting shall be paid as follows:

BUYER shall make an advance deposit with SELLER or SELLER's designee in the amount of One Hundred Thousand Dollars (\$100,000.00), to be applied as provided below.

All timber cut shall be paid on a periodic basis at the rate of:

Red oak	\$350 per thousand board feet
Ash	\$350 per thousand board feet
Pecan	\$185 per thousand board feet
White oak	\$250 per thousand board feet

On or before the last day of each period BUYER shall forward its payment to SELLER or SELLER's designee, together with an accurate report setting forth the MBF, by species, cut,

delivered and scaled or weighed during the period, and SELLER shall have the right to reasonably inspect and verify the cut so reported.

Thereupon, all timber cut, delivered and scaled or weighed during said period shall be paid for on the following basis:

The advance deposit shall be exhausted first and then all subsequent payments will be made on a cash basis.

All logs shall be delivered and scaled applying the Doyle Log Rule unless otherwise agreed.

BUYER shall have eighteen (18) months from the date on which this Timber Deed is executed by SELLER in which to cut and remove all of the trees and timber herein sold and conveyed. SELLER guarantees unrestricted access to a state highway.

SELLER also transfers and assigns to BUYER all necessary rights of ingress and egress over and across the above described property and any other property owned by SELLER and contiguous thereto for the purpose of cutting and removing the trees and timber herein sold and conveyed.

BUYER may, during the term of this agreement, enter upon and cut and remove trees and timber on as many occasions as may be necessary and the entrance upon and the cutting and removing of a portion of the trees and timber shall not be construed as a waiver or forfeiture of BUYER's right to again enter upon and cut and remove the remaining trees and timber.

BUYER shall pay all severance tax due the State of Louisiana on the trees and timber sold and conveyed pursuant to this Timber Deed.

To the extent that it is economically reasonable given the consideration paid, BUYER agrees to conduct all logging operations in compliance with the recommendations of the Louisiana Forestry Association contained in the brochure entitled *Recommended Forestry Best Management Practices for Louisiana*.

SELLER shall in no way be liable or responsible for any injuries or damages done or occasioned by the action and operations of the BUYER, its agents, servants, employees and independent contractors under this conveyance, and BUYER binds and obliges itself, its successors and assigns, to pay and satisfy any and all claims arising on account of its operations, whether caused by injuries to its employees or other persons, or to any type of property, and to save, hold harmless and defend SELLER from any and all such claims.

BUYER agrees to notify Shot Gwin at Timberland Services, LLC, 601-431-3693, at the beginning or resumption of logging operations and a minimum of forty-eight (48) hours prior to completion, during the term of this contract.

BUYER agrees to promptly repair all roads, canals, fences and other improvements and to leave the roads, canals and fences in as near as possible the same condition they were in before logging operations began.

BUYER agrees to protect unsold timber from unnecessary damage.

BUYER agrees to dispose of cans, bottles, paper and other litter as a result of its activities on the SELLER's property throughout logging operations.

SELLER shall pay Timberland Services, LLC, ten percent (10%) of the amount of payments made by BUYER in accordance with the terms herein.

SELLER shall pay Flashpoint Agency, LLC, one percent (1%) of the amount of payments made by BUYER in accordance with the terms herein.

SELLER acknowledges that the activities associated with BUYER's loggers shall cause change in the land of SELLER.

STATE OF LOUISIANA

PARISH OF Laplace

IN WITNESS WHEREOF, this instrument has been executed by FORMOSA PLANTATION, L.L.C., in the presence of the undersigned Notary Public and the undersigned legal and competent witnesses on this the 2nd day of March, 2017, after due reading of the whole.

WITNESSES:

Lorraine B. Guilbeau  
(Signature of witness)

Lorraine B. Guilbeau  
(Printed name of witness)

[Signature]  
(Signature of witness)

Chad Guilbeau  
(Printed name of witness)

SELLER:

FORMOSA PLANTATION, L.L.C.

By [Signature]

[Signature]  
NOTARY PUBLIC, ID # 62436 (if applicable)  
Printed name of Notary: Therese L. [Signature]

STATE OF MISSISSIPPI

COUNTY OF Adams

IN WITNESS WHEREOF, this instrument has been executed by RIVES AND REYNOLDS LUMBER COMPANY, INC., in the presence of the undersigned Notary Public and the undersigned legal and competent witnesses on this the 9 day of March, 2017, after due reading of the whole.

WITNESSES:

Mike Pugh  
(Signature of witness)

Mike Pugh  
(Printed name of witness)

Wanda Hosea  
(Signature of witness)

wanda Hosea  
(Printed name of witness)

BUYER:

RIVES AND REYNOLDS LUMBER COMPANY, INC.

By Bruce Reynolds

Kelly New  
NOTARY PUBLIC, ID # 77087 (if applicable)  
Printed name of Notary: Kelly New  
in and for \_\_\_\_\_  
My commission expires: mar 23 2017

INSTRUMENT PREPARED BY:  
Robert R. PUNCHES  
LA Bar No. 10904  
Gwin, Lewis, PUNCHES & KELLEY, LLP  
P. O. Box 1344  
Natchez, MS 39121  
Telephone 601-446-6621



CONTRACT OF PURCHASE AND SALE

THIS CONTRACT of purchase and sale made and entered into by and between RIVES AND REYNOLDS LUMBER COMPANY, INC., a Mississippi corporation, and FORMOSA PLANTATION, L.L.C., a Louisiana limited liability company, witnesseth:

Rives and Reynolds Lumber Company, Inc., and Formosa Plantation, L.L.C., agree to enter, execute and deliver the Timber Deed attached as Exhibit "A" upon the approval of the Bankruptcy Court of the Eastern District of Louisiana, Case No. 16-12645, and the written consent of Louisiana Land Bank ACA, South Lafourche Bank & Trust Company, and other necessary parties as determined by the Court and/or Trustee. This contract is also contingent upon the Bankruptcy Court's order directing that a portion of the advance deposit be utilized for the construction of a bridge on the property necessary for the removal of timber. The bridge will be constructed from two flat bed trailers connected and crossing a creek or drain to replace a dilapidated wooden bridge. The approximate cost of this repair is estimated to be less than \$10,000.

WITNESS the signatures of the parties this 2nd day of March, 2017.

FORMOSA PLANTATION, L.L.C.

By 

RIVES AND REYNOLDS LUMBER  
COMPANY, INC.

By 