

RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION

WHEREAS, the White Mountain Apache Tribe owns and operates the Fort Apache Timber Company, a tribal enterprise, and

WHEREAS, the Tribal Council is authorized to select a Sales Representative for the sales operations related to the enterprise, and

WHEREAS, Hal Butler Lumber Wholesale, Inc. has competently served the Tribe as Sales Representative for many years, and

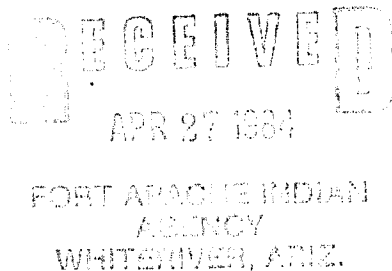
WHEREAS, the Tribal Council has reviewed, considered and approves the terms and conditions of a contract between the Tribe and Hal Butler Lumber Wholesale, Inc., a copy of which is attached hereto, and

WHEREAS, the Board of Directors of the Fort Apache Timber Company recommends Council acceptance of the contract between Hal Butler Lumber Wholesale, Inc. and the White Mountain Apache Tribe.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby authorizes and directs the Tribal Chairman to execute the contract for sales of timber products for and on behalf of the tribe and with Hal Butler Lumber Wholesale, Inc., Sales Representative, which contract is attached hereto and by this reference incorporated herein.


BE IT FURTHER RESOLVED that the Sales Representative Contract shall be effective July 01, 1984 to June 30, 1989.

The foregoing resolution was on April 18, 1984 duly adopted by a vote of 10 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article V, Section 1 (b) and (i) of the Amended Constitution and By-Laws of the Tribe, ratified by the Tribe June 27, 1958 and approved by the Secretary of the Interior on May 29, 1958, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).





Chairman of the Tribal Council



Secretary of the Tribal Council

1 CONTRACT FOR SALES OF TIMBER PRODUCTS
2 FOR THE FORT APACHE TIMBER COMPANY
3 An Enterprise of the
4 White Mountain Apache Tribe

5 THIS AGREEMENT made as of the _____ day of _____,
6 1984, by and between the Fort Apache Timber Company, herein-
7 after referred to as "Company", and HAL BUTLER LUMBER
8 WHOLESale, INC., "Sales Representative" hereinafter referred to
9 as "Contractor";

10 W I T N E S S E T H:

11 WHEREAS, the Company is engaged in the manufacture and
12 production of timber products at its mill located in Navajo
13 County, State of Arizona; and

14 WHEREAS, the Contractor is qualified to carry on the
15 wholesale and retail sales thereof within and without the
16 boundaries of the State of Arizona and further, has customers
17 who have long dealt with it in the lumber business;

18 NOW, THEREFORE, in consideration of the premises, and of
19 the conditions and stipulations hereinafter contained, and
20 parties hereto agree as follows:

21 1. For a period of five (5) years commencing July 1,
22 1984, and ending June 30, 1989, the Contractor is hereby
23 granted the exclusive agency to solicit orders for and sell any
24 and all of the timber products, which shall include lumber,
25 mine props and other wood products but shall not include chip
26 production and logs sold with no manufacturing cost,
27 manufactured by the Company at its Sawmills on the Fort Apache
28 Indian Reservation, Navajo County, Arizona. However, Company
reserves the right to sell timber products manufactured by

1 Company from said mill to members of the White Mountain Apache
2 Tribe, Tribal Enterprises, and to the Fort Apache Indian Agency
3 of the Bureau of Indian Affairs, and no hereinafter mentioned
4 commissions shall be paid to Contractor for such sales of said
5 timber products.

6 2. The Contractor is hereby given the right, option and
7 privilege to appoint any associate, representative or assistant
8 to aid and assist the said Contractor or to represent it in the
9 performance of its services hereunder. However, the Company
10 shall not be obligated to pay any additional compensation for
11 the services of such associate, representative or assistant in
12 addition to that provided to be paid to said Contractor
13 hereunder; and further, Contractor shall be responsible to
14 Company for the acts of any associates, representatives or
15 assistants so employed by it and shall indemnify Company for
16 any loss or liability arising from the acts of any associates,
17 representatives, or assistants.

18 3. Company agrees to pay to the Contractor as compen-
19 sation for its services, each month of operation, a sum equal
20 to five percent (5%) of Company's gross sales F.O.B. Whiteriver
21 on the Company's first \$1,200,000.00. For sales of:

22	0	to \$1,200,000.00	5% of the total amount
23	\$1,200,001.00	to \$1,300,000.00	4.61% of the total amount
24	\$1,300,001.00	to \$1,400,000.00	4.28% of the total amount
25	\$1,400,001.00	to \$1,500,000.00	4.00% of the total amount
26	\$1,500,001.00	to \$1,600,000.00	3.75% of the total amount
27	\$1,600,001.00	to \$1,700,000.00	3.53% of the total amount
28	\$1,700,001.00	to \$1,800,000.00	3.33% of the total amount

1 \$1,800,001.00 to \$1,900,000.00 3.16% of the total amount
2 \$1,900,001.00 to \$2,000,000.00 3.00% of the total amount
3 \$2,000,001.00 to \$2,100,000.00 2.86% of the total amount
4 \$2,100,001.00 to \$2,200,000.00 2.72% of the total amount
5 \$2,200,001.00 to \$2,300,000.00 2.61% of the total amount
6 \$2,300,001.00 to \$2,400,000.00 2.50% of the total amount
7 \$2,400,001.00 to \$2,500,000.00 2.40% of the total amount
8 \$2,500,001.00 to \$2,600,000.00 2.30% of the total amount
9 \$2,600,001.00 to \$2,700,000.00 2.22% of the total amount
10 \$2,700,001.00 to \$2,800,000.00 2.14% of the total amount
11 \$2,800,001.00 to \$2,900,000.00 2.07% of the total amount
12 \$2,900,001.00 to \$3,000,000.00 2.00% of the total amount

13 and over

14 Less returns of timber products, if any, discounts, sales to
15 WMAT members, WMAT enterprises and the Fort Apache Indian
16 Agency of the BIA. Said commissions payable monthly, provided,
17 however, the commissions shall not be payable or earned until
18 the timber products are delivered, accepted and paid for by the
19 customer; and provided further that the Contractor shall pay
20 all of its own expenses, including all salaries and commissions
21 to its employees, occupational taxes in the form of licenses to
22 engage in or conduct a business and all taxes, including (but
23 not by way of limitation) taxes that may be assessed on the
24 personal property and equipment of Contractor used in the
25 conduct of its business. Sales taxes, collectible or not
26 collectible from the customer, and personal property taxes, if
27 any assessed on lumber stock, shall be the responsibility of
28 the Company.

1 4. The Company agrees that during the life of this
2 Agreement, it will not sell or cause any of its timber products
3 to be sold, with the exception of those sold to members of the
4 White Mountain Apache Tribe, White Mountain Apache Tribal
5 Enterprises and the Fort Apache Indian Agency of the Bureau of
6 Indian Affairs, except through the Contractor, and to refer all
7 inquiries except those from Tribal Members, Tribal Enterprises
8 and the Fort Apache Indian Agency of the Bureau of Indian
9 Affairs, concerning its timber products that may be received by
10 it through any source, or by any means whatsoever, to the
11 Contractor for its attention. Inquiries are included to mean
12 all local export commission houses that are generally known or
13 described as such and indicate that the product is for use in
14 foreign countries. The Contractor agrees that during the term
15 of this contract, it will not sell or manufacture for itself or
16 others the same types and kinds of products manufactured by the
17 Company.

18 5. The Company further agrees to furnish Contractor and
19 the Agency Superintendent, at least monthly, with a stock list,
20 showing all material on hand, and the quality thereof. The
21 Contractor and the Mill Manager, jointly, will establish
22 selling prices for all of the timber products, provided that
23 during anytime when Hal Butler is managing the mill operations
24 as acting manager, he, with the Chairman of the Company Board
25 of Directors, shall establish the selling price of the timber
26 products manufactured by the Company. Should they be unable to
27 agree, the matter will be referred to the Board of Directors
28 for arbitration and their decision shall be final. It is

1 further agreed that said Company will become a member of
2 Western Wood Products Association and will employ a grader who
3 will be certified by the said Western Wood Products
4 Association.

5 6. Contractor agrees to indemnify, protect and hold
6 harmless Company from all claims, demands, suits or actions for
7 damages to persons or property or for personal injuries which
8 may be suffered by any third party or parties arising out of or
9 incidental to the conduct of the business of the Contractor
10 growing out of this contract. Contractor agrees not to use or
11 permit employees or consultants to employ or use an automobile
12 in connection with any business contemplated herein unless and
13 until it has and/or they have obtained public liability and
14 property damage insurance thereon in form and amount approved
15 by the Board of Directors of the Company.

16 7. Contractor shall maintain records of prospects and
17 users of lumber products in accordance with Company regulations
18 and policies as determined by the Board of Directors and the
19 Superintendent of the Fort Apache Indian Agency, and shall
20 communicate to the Board of Directors and Superintendent,
21 complete information thereof without any reservation
22 whatsoever.

23 8. Contractor shall send to Company Board of Directors
24 and Agency Superintendent annually, or at such other intervals
25 as they may prescribe, on a form or forms prescribed by the
26 Board of Directors and Superintendent, a statement of the
27 income and expenses of its operations. Contractor further
28 agrees to furnish at any time upon request of the Board of

1 Directors or the Superintendent a sworn statement of its
2 financial condition and to permit the duly authorized
3 representatives of the Company and/or Agency Superintendent to
4 audit and examine its books and accounts, and shall make full
5 disclosure, without reservation of any kind, necessary to
6 enable the Company to determine fully its financial conditions
7 and whether it is faithfully performing its obligations under
8 this contract. Such right of audit shall continue throughout
9 the period of this contract and for six (6) months after its
10 termination.

11 9. Company's and/or Superintendent's right to and
12 authority to require audits shall include the right to
13 inventory and trace all timber products shipped to Contractor
14 and entrusted to its care and in the event stocks are not fully
15 accounted for, Contractor agrees to pay in cash to Company the
16 full retail value of any items missing or not accounted for,
17 less the applicable discount, such payments to be made upon
18 demand on conclusion of the audit. The Contractor shall also
19 have the right to audit the books and records of the Company at
20 its expense. In the event Company has not properly recorded
21 all sales, resulting in an underpayment of commissions to the
22 Contractor, then the Company agrees to pay in cash to the
23 Contractor any such discrepancy, such payments to be made upon
24 demand on conclusion of the audit which verified such
25 underpayment. The right of audit hereby given shall be without
26 prejudice to any legal remedy available to Company and its
27 exercise shall not be deemed a condition precedent to resort to
28 any legal remedy.

1 10. Contractor agrees to abide by all of Company rules and
2 regulations pertaining to credit sales of timber products, and
3 where Company policies permit delivery on credit, Contractor
4 agrees to assist the Company in the collection of accounts
5 without additional compensation.

6 11. Contractor further agrees to perform its duties
7 carefully, efficiently and satisfactorily to the Company; that
8 it will make true and accurate entries and reports and that it
9 will hold in trust all money and property of the Company under
10 its control or in its custody and that it will be industrious,
11 loyal, and faithful to the Company at all times.

12 12. The Contractor shall be bonded to the White Mountain
13 Apache Tribe in the amount of \$100,000.00 with a surety company
14 or companies on the United States Treasury's approved list,
15 which bond shall protect the Company against financial loss by
16 reason of any act or acts of fraud, dishonesty, forgery,
17 embezzlement, wrongful abstraction, or wilful misapplication on
18 the part of the Contractor.

19 13. If the Contractor authorizes any of its subordinates
20 or employees to handle funds, it shall require such
21 subordinates or employees to be bonded to the White Mountain
22 Apache Tribe in an amount and in a manner satisfactory to the
23 Company Board of Directors and Tribal Council. The cost of the
24 bond of the Contractor shall be considered an operating expense
25 of the Contractor. The cost of bonds for the Contractor's
26 subordinates shall be at its expense. The Tribal Council may,
27 in writing, require the Contractor to increase or decrease the
28

1 amount of the surety bond. All such surety bonds shall be
2 deposited with the Tribal Council for safekeeping.

3 14. If at any time the said Contractor is guilty of
4 neglect of duty, negligence, incompetence or inefficiency,
5 dishonesty, disobedience of the Company's rules, instruction or
6 orders, unfaithfulness to the Company's interests, immorality,
7 disreputable and unbecoming conduct, or it consistently fails
8 to secure the individual item prices as computed by the monthly
9 price summary of the Western Wood Products Association on all
10 items, excluding green shop and better, and in that event or
11 events, the Company may elect to terminate this Agreement by
12 giving to the Contractor written notice of its election to so
13 do; whereupon, this Agreement, together with any and all
14 modifications thereof, shall be terminated and canceled as to
15 all particulars and for all purposes, and the contractor shall
16 be relieved and released from further performance under this
17 Agreement.

18 15. It is mutually agreed by the parties hereto that this
19 contract may be terminated prior to the 30th day of June, 1989,
20 in any of the ways set forth herein. At the time of
21 termination, a full accounting for all property and funds of
22 the Company or which the Contractor is responsible shall be
23 rendered by the Contractor, and an audit shall be made. If
24 terminated by the Company, the audit shall be at the expense of
25 the Company. If terminated by the Contractor, the audit shall
26 be at the expense of the Contractor, unless termination is at
27 the close of the fiscal year.

28

1 (a) The Board of Directors of the Company may
2 terminate this contract at any time by giving the
3 Contractor ninety (90) days notice in writing, with the
4 approval of the Tribal Council and Superintendent. The
5 Contractor may be required to turn over all property and
6 funds of the Company to an authorized representative of
7 the Tribal Council, upon receipt of a notice of
8 termination. In the event the contract is terminated in
9 this manner, the Contractor shall be entitled to receive
10 its commission on sales in accordance with the provisions
11 of Section 3, on all timber products sold by it during the
12 remaining ninety (90) day period from the date of its
13 notice of termination.

14 (b) Company may terminate this contract at any time
15 without prior notice to the Contractor for cause as
16 provided in Section 14 and with approvals as provided in
17 Section 15(a) above.

18 (c) The Contractor may terminate this contract at
19 any time by giving the Company Board of Directors and the
20 Superintendent ninety (90) days notice in writing. Should
21 the Contractor terminate this contract without giving the
22 Company the required ninety (90) days notice, it hereby
23 agrees that it or any of its employees or associates will
24 not sell to any customer of the Company, any timber
25 products manufactured by the Company, or any other
26 company, for a period of three (3) years, and it further
27 agrees not to represent any company or sell or cause to be
28 sold any products manufactured by the Company, or any

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

other Company in the State of Arizona, New Mexico, and Texas for a period of one (1) year from the effective date of such termination.

16. The Contract and the rights and obligations hereunder shall be non-assignable except with the consent of the Company.

IN WITNESS WHEREOF, the Board of Directors of the Fort Apache Timber Company has caused this contract to be executed by its Chairman at Whiteriver, Arizona, this ____ day of _____, 1984, and the Contractor has executed said contract at Whiteriver, Arizona, this ____ day of _____, 1984.

FORMING A PART OF CONTRACT between FORT APACHE TIMBER COMPANY and HAL BUTLER LUMBER WHOLESALE, INC., dated the ____ day of _____, 1984.

FORT APACHE INDIAN AGENCY

Superintendent, Approved under delegation of Authority by Area Director in letter of _____, 1984.

WHITE MOUNTAIN APACHE TRIBE

Concur:

Chairman of the Tribal Council

ATTEST:

Secretary, Tribal Council

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FORT APACHE TIMBER COMPANY

By: _____
Chairman, Board of Directors

HAL BUTLER LUMBER WHOLESALE, INC.

By: _____
Hal F. Butler

WITNESSES:

Name

Address

Name

Address