

RESOLUTION NO. 2009- 13

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, APPROVING THE TERMS AND AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE PURCHASE AND SALE AGREEMENT FOR THE ACQUISITION OF PROPERTY TO MITIGATE WETLAND IMPACTS AS A RESULT OF THE CONSTRUCTION OF CAPITAL IMPROVEMENT PROJECTS.

RECITALS

WHEREAS, the Terrapointe LLC, has agreed to the terms described in the Purchase and Sale Agreement, attached hereto as Exhibit "A", incorporated by reference and made a part hereof, agreeing to sell the property described therein; and

WHEREAS, the approximate 197 acres of land which is depicted on Exhibit "B", incorporated by reference and made a part hereof; and

WHEREAS, this parcel is located in the St. Johns River Water Management District Mitigation Basin 9 and this site could be used to mitigate County projects with wetland impacts in this portion of the County; and

WHEREAS, based on the projected CIP list of transportation projects the County will need to have a reserve of land for mitigation use within Mitigation Basin 9; and

WHEREAS, the County has 80 days for due diligence and can withdraw from the contact for any reason without penalty.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the terms of the Purchase and Sale Agreement and authorizes the County Administrator to execute two original Purchase and Sale Agreements and take all steps necessary to move forward to close this transaction. To the extent that there are typographical errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

Section 3. The Clerk is instructed to file the original Purchase and Sale Agreement in the Clerk Office.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this 20th day of January, 2009.

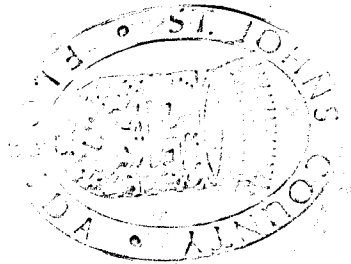
BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Cyndi Stevens
Chair

ATTEST: Cheryl Strickland, Clerk

By: Pam Halterman
Deputy Clerk

RENDITION DATE 1/22/09



PURCHASE AND SALE AGREEMENT

RECEIPT IS HEREBY acknowledged by **TERRAPOINTE LLC**, a Delaware limited liability company, authorized for and doing business in the state of Florida ("SELLER"), of the sum of Eighty-Four Thousand Seven-Hundred Ten and No/100 Dollars (\$84,710.00), ("Earnest Money Deposit") from **ST. JOHNS COUNTY** ("County"), a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 ("BUYER"), as the Earnest Money Deposit (as described in Paragraph 1 below) and as a part of the purchase price on account of BUYER's offer to purchase from SELLER the real property consisting of approximately 197 acres of land, located in St. Johns County, Florida, as shown on **EXHIBIT A**, attached hereto and incorporated herein, and depicted as "**Sale Area**" (the "Land" or the "Sale Premises" or "Property").

WITNESSETH

SELLER hereby agrees to sell, and BUYER hereby agrees to buy, the Land on the following terms and conditions:

1. **PURCHASE PRICE:** (to be adjusted ratably at the rate of **\$4,300.00** per acre by certified survey under the terms of Paragraph 8 herein) **\$847,100.00**

PAYMENT:

- (a) Earnest Money Deposit (10% of Purchase Price) which shall be paid by certified or cashier's check and delivered and made payable to Seller **\$84,710.00**
- (b) Balance to close, (U.S. wire transfer value dated upon date of sale) subject to adjustments and prorations, payable at Closing) **\$762,390.00**

2. **DEED.** It is understood that the Land will be conveyed by **SPECIAL WARRANTY DEED** limiting SELLER's warranties to claims arising by, through or under SELLER and subject to current taxes, any other provision referred to in this Agreement, existing cemeteries, if any, easements, encroachments, servitudes, covenants, restrictions, zoning ordinances, rights-of-way, outstanding mineral interests, riparian rights, title to lands lying below the mean high water line of any bodies of water, and all matters apparent from inspection of the Land or the public records. SELLER or its affiliated or related companies, as applicable, shall convey to BUYER any and all mineral rights as they may have in and to the Lands. Any previously reserved rights by affiliated companies will be released via a quit claim deed except as otherwise provided in this Agreement. No warranty as to exact acreage will be made.

3. **SELLER'S COSTS.** SELLER shall only pay for SELLER's attorney's fees, the preparation of the Deed, and SELLER's prorated amount of ad valorem taxes.

4. **BUYER'S COSTS.** BUYER shall pay all other transaction and closing costs, including any sales tax imposed on the transfer of personal property, title examination fees, title insurance premium, and all recording or filing fees, documentary, transfer and stamp tax on the deed, closing fee of title company, title agent or closing attorney, local or county assessments, the costs of the survey referred to in Paragraph 8, and BUYER's prorated amount of ad valorem taxes pursuant to Paragraph 5.

5. **TAXES.** Ad valorem taxes for the year of closing shall be prorated between BUYER and SELLER as of the date of closing based on the amount of the latest taxes assessed against the Land, less the maximum discount for early payment. SELLER shall not be responsible for any portion of increased taxes resulting from any use changes initiated or pursued by BUYER or as a result of BUYER's actions with regards to the Land, or change in the use of the Land from its present designation. SELLER's portion of the prorated ad valorem taxes shall be payable to St. Johns County Tax Collector at Closing.

6. **TITLE EXAMINATION AND CLOSING.**

(a) SELLER shall convey to BUYER a good and marketable fee simple title by SPECIAL WARRANTY DEED, subject to the matters previously herein stated. BUYER shall have until **Eighty (80) days from the Effective Date of this Agreement** to examine the title. The parties agree that if the title is such as would permit Action Title Services (or a comparable nationally-recognized title insurance company mutually agreeable to both parties) to insure the title consistent with its underwriting standards, on standard forms, for its usual fee, and subject to exceptions for the items set forth in this Purchase and Sale Agreement, then said title shall be conclusively presumed to be good and marketable as to all matters covered by said policy and not excepted from it. **The title search and title policy (if acquired), and any title insurance premium shall be at BUYER's expense.**

(b) If the title examination shows that SELLER is vested with good and marketable title to the Land, subject to the reservations and exceptions and criteria noted in sub-Paragraph (a), above and Paragraph 2 herein, the transaction shall be closed and SELLER and BUYER shall perform the agreements made herein on or before the applicable Closing date of **May 28, 2009.**

(c) If the title examination reveals any defects which render the title unmarketable, BUYER shall give to SELLER written notice of such defects by **Eighty (80) days from the Effective Date of this Agreement.** Any defects that BUYER does not address with SELLER in writing by **Eighty (80) days from the Effective Date of this Agreement** shall be waived by BUYER. SELLER shall have the right to cure the properly noticed defects, but shall not be required to do so. If the defects are cured, this transaction shall be closed within the time allowed for Closing hereunder.

(d) If SELLER is unable to convey to BUYER marketable title to the Land in accordance with this Agreement, BUYER shall have the right to (i) demand and receive from SELLER all sums deposited hereunder, at the same time abandoning any legal or equitable rights in the Land to SELLER, executing a full and complete release of SELLER for all claims arising under or associated with this Agreement or the purchase of the Land, and returning to SELLER any title evidence, surveys or other similar documents received from SELLER and BUYER's copy of this Agreement, whereupon all rights and liabilities of the parties hereunder shall cease and terminate, except for the indemnification provisions of paragraphs 11 and 22 hereunder, which shall survive such termination, together with any other provisions which expressly survive termination of this Agreement; or (ii) accept such title with such defects, and close this transaction upon the other terms as stated herein. These are BUYER's sole and exclusive remedies for failure of SELLER to convey marketable title to BUYER.

(e) The Closing of the purchase and sale of the Land shall be held at such location as SELLER may specify to BUYER upon reasonable notice. The Closing may be conducted by or through SELLER's counsel or, with prior written approval, BUYER's title insurance company or other reputable escrow agent, at the election of SELLER, or as a mail-away escrow-style closing through the Closing agent.

(f) Deposit and Contingency Period:

Upon approval of this Agreement by SELLER and acceptance of the deposit referenced in paragraph 1(a) from BUYER, then BUYER shall have the right to a due diligence period to determine the suitability of the Land for its intended use. **BUYER shall have until 5:00 P.M. (EST) 80 days from the Effective Date of this Agreement to exercise this right.** If BUYER'S investigation reveals that the Land is not suitable for its intended use, BUYER shall provide written notice thereof to SELLER **on or before 5:00 P.M. (EST) 80 days from the Effective Date** of this Agreement, and upon tender and assignment of BUYER's site specific investigation reports (if any), including an assignment of the contracts by which the reports were undertaken, and all site specific planning, engineering, environmental investigations, testing, and support data, together with certification that all work performed is paid for, and execution of a complete release by BUYER of SELLER of all claims arising under or associated with this Agreement or the purchase of the Land, BUYER shall have the right to cancel this Agreement and demand and receive from SELLER the Earnest Money Deposit referred to in Paragraph 1(a), at the same time abandoning any legal or equitable rights in the Land to SELLER and returning to SELLER any surveys, or other information received from SELLER, and BUYER's counterpart of this Agreement, whereupon all rights and liabilities of the parties hereunder shall cease, except for the indemnification obligations of Paragraphs 11 and 22 hereunder and any other provisions which expressly survive termination of this Agreement. This shall constitute BUYER's sole and exclusive remedy hereunder. If BUYER does not provide said written notice, then this transaction shall proceed to Closing.

7. **DEFAULT BY BUYER OR SELLER.**

(a) Default by BUYER. If BUYER fails to complete the purchase of the Land for any reason within the time specified above, except default by SELLER, then all rights of BUYER hereunder shall automatically cease and all moneys deposited hereunder shall become the property of SELLER, the sum being agreed to be reasonable liquidated damages. Thereupon, BUYER shall forthwith return to SELLER any title evidence, surveys, or other similar documents received from SELLER, and BUYER'S copy of this Agreement, satisfy the obligations of paragraph 6(g), and as well BUYER shall execute a full and complete release of SELLER for any claims arising under or associated with this Agreement or the purchase of the Land, whereupon all rights and liabilities of the parties hereunder shall cease and terminate, except for the indemnification provisions of paragraphs 11 and 22 hereunder, which shall survive such termination, together with any other provisions which expressly survive termination of this Agreement.

(b) Default by SELLER. If SELLER shall default in its obligations to close this transaction as provided in this Agreement for any reason other than conditions of title, as provided in Paragraph 6 above, or BUYER's default, BUYER shall be entitled to a return of all sums deposited hereunder or, in the alternative, shall be entitled to enforce specific performance of this Agreement. If BUYER elects to receive a return of all sums deposited hereunder, BUYER shall execute a full and complete release of SELLER for any claims arising under or associated with this Agreement or the purchase of the Land, at the same time abandoning any legal or equitable rights in the Land to SELLER and returning to SELLER any title evidence, surveys or other similar documents received from SELLER, and BUYER's copy of this Agreement, whereupon all rights and liabilities of the parties hereunder or in any way related to the potential purchase of the Land shall cease and terminate, except for the indemnification provisions of paragraphs 11 and 22 hereunder, which shall survive such termination, together with any other provisions which expressly survive termination of this Agreement.

(c) Liquidated Damages. BUYER and SELLER agree that (i) the foregoing remedy provisions set forth in subparagraphs (a) and (b) constitute the sole and exclusive remedies of

each party in the event of a default by the other, except for any default by BUYER following the Closing, (ii) these damages provisions of this Agreement do not constitute a penalty or forfeiture, (iii) actual damages are difficult or impossible to measure, and (iv) the remedy of liquidated damages is a proper and mutually accepted negotiated remedy for the parties due to the fact that the damages suffered by the parties are not ascertainable at the time of execution of this Agreement and that such remedy takes into account the peculiar expenses and risks assumed by each party.

8. **SURVEY**. BUYER shall cause a closed traverse survey of the Land to be made by a registered Florida surveyor, and certified and delivered to SELLER no later than **30 DAYS PRIOR TO CLOSING**. The legal description of the Land shall be based on such survey. All boundary lines of the Land which abuts SELLER's remaining property shall be hacked and blazed by BUYER's surveyor prior to the Closing of this transaction. **The survey shall conform to SELLER's standard survey specifications (see attached EXHIBIT B).**

9. **RECORDING**. Intentionally omitted.

10. **DOCUMENTATION**. At or in connection with Closing, SELLER shall furnish to BUYER an assistant secretary's certificate certifying the representations and warranties of SELLER contained herein to be true and correct in all material respects and certifying the authority of the signatories to the closing documents – no other documentation regarding authority will be provided except as may be agreed by SELLER in its sole discretion. SELLER will prepare the closing documents and provide them to BUYER or BUYER's counsel prior to Closing.

11. **POSSESSION/INSPECTION**.

(a) BUYER shall have the right to enter upon and take possession of the Land from the date of Closing.

(b) BUYER is given the right to enter upon the Land by license from date of this Agreement through Closing to determine its suitability for BUYER's intended purposes, and to conduct thereon such surveys, tests, and examinations as BUYER deems necessary, upon the express condition that BUYER shall exercise its privileges under this right of entry at BUYER's own risk and its sole cost and expense. Such license shall not operate to extend the Closing hereunder in any manner. BUYER agrees to notify Seller prior to its initial entry upon the Land and prior to surveying or conducting tests. Access by BUYER or its employees, agents, contractors, consultants, surveyors, engineers or other party by or through BUYER shall be limited to reasonable daylight hours. BUYER shall defend, indemnify and hold SELLER and its affiliated or related companies harmless from and against any and all liability for injury, damage, cost, loss and expense (including attorney's fees and expenses) resulting from, arising out of, or in any way connected with BUYER's or its agents', contractors', invitees' or guests' use and occupancy of the Land, whether such injury or damage is sustained by BUYER, SELLER, or any third party. BUYER shall further defend, indemnify and hold harmless SELLER from any cost, charge or claim arising under or by reason of any work performed at or upon the Land by engineers, environmental consultants, surveyors or other agents or contractors performing services at the request of BUYER. SELLER shall not be liable to BUYER, if for any reason, BUYER's occupancy or use of the Land shall be hindered or interrupted for any reason whatsoever. The provisions of this Paragraph 11(b) shall survive any termination of this Agreement or Closing hereunder.

(c) Intentionally Deleted

(d) In the event that the Land is not acquired by BUYER, BUYER agrees to restore the Land to its pre-assessment/investigation condition. BUYER agrees that where it is unable to restore said Land, it will compensate SELLER for any such damage that may be done to timber or the Land. The provisions of this Paragraph 11(d) shall survive any termination of this Agreement.

(e) SELLER advises BUYER that the Land or portions of it may be situated in remote locations, without paved access roads. The presence of such roads or their condition is not guaranteed in any way by SELLER. BUYER acknowledges that there may be certain inherent risks associated with conducting its intended due diligence activities on the Land due to the primitive/unimproved nature of the Land. SELLER further advises BUYER that others may have been given permission to enter the Land including, but not limited to; timber vendees who may be upon the Land to harvest timber with men and machinery; and other licensees of SELLER. BUYER acknowledges these facts and agrees to defend, indemnify and hold harmless SELLER and its affiliated or related companies from any and all liability, claim or demand which BUYER, or any of its agents, employees or assigns may have or claim to have now or hereafter against SELLER or its affiliated or related companies as a result of the exercise of this grant of access prior to closing. The indemnification provisions of this Paragraph 11(e) shall survive Closing or any termination of this Agreement.

(f) It is understood and agreed to that BUYER accepts the Land "AS IS" "WHERE IS" and "WITH ALL FAULTS", without any representation or warranty whatsoever as to its condition, fitness for any particular purpose, merchantability, or any other warranty, express or implied, except as specifically provided in this Agreement or in the documents provided at Closing. SELLER specifically disclaims any warranty, guaranty or representation, oral or written, past or present, express or implied, concerning the Land except as otherwise provided in this Agreement. This specifically includes but is not limited to (i) the present or future physical conditions or suitability of the Land; (ii) the availability of roadway access, water, sewer, or electrical, gas or other utility services; (iii) the location of the Land or any portion thereof within any flood plain, evacuation zone, flood-prone area, or watershed; (iv) the number of acres of the Land; (v) the current or future zoning classification; (vi) applicable state, federal or local land use restrictions, regulations or covenants; or (vii) any other matter or thing affecting or relating to the Land or to its suitability for any purpose whatsoever other than the historic purpose for which the land was used by SELLER. BUYER acknowledges that BUYER is acquiring the Land based solely upon BUYER's own independent investigation and findings concerning the Land and except as otherwise specifically provided in this Agreement, not in reliance upon any information provided by SELLER or SELLER's agents, employees, contractors or brokers. The provisions of this Paragraph 11(f) shall survive Closing or any termination of this Agreement.

(g) BUYER may request and SELLER, at its sole and complete discretion, may provide to BUYER certain documents in the course of this Agreement. In the event that SELLER agrees to furnish to BUYER any documents, such documents will be made available by SELLER to BUYER without representation or warranty as to the accuracy or any other aspect contained in such documents, including but not limited to any information provided by any third party, and as an accommodation only. BUYER hereby acknowledges, covenants and agrees that the above documents are provided to BUYER without representation or warranty of any kind whatsoever, either express or implied, and BUYER is without any recourse against SELLER or its affiliated or related companies or their employees, officers, directors, representatives or agents with respect to the accuracy of any information or statements contained therein. BUYER further acknowledges that it will not rely upon any such documents and will make its own independent investigation or inquiry as to the accuracy of the information or statements contained in the documents. BUYER hereby absolutely, unconditionally, expressly and

knowingly waives any and all claims, rights and causes of action BUYER may have against SELLER or its affiliated or related companies and their respective employees, officers, directors, representatives or agents and hereby releases SELLER, its affiliated or related companies and their respective employees, officers, directors, representatives and agents from any and all liability relating to, or arising in connection with, directly or indirectly, the provision of any documents and the information or statements contained therein. Further, BUYER unconditionally and absolutely covenants not to bring any action against SELLER, its related or affiliated companies, or their respective employees, officers, directors, representatives or agents for any claim whatsoever relating to or involving the documents or the information therein. The provisions of this Paragraph shall survive any Closing or termination of this Agreement. Any documents provided by SELLER to BUYER shall be maintained by BUYER in strict and complete confidence to the extent allowable by law. BUYER shall not publish, disclose, transfer, release or divulge, either directly or indirectly, any such documents or the information contained therein to any third party or use any such information for any purpose other than the potential purchase of the Land hereunder, without the prior written permission of SELLER, provided, however, BUYER may disclose such information to BUYER's attorneys, consultants, agents and applicable governmental authorities. The documents are to be returned in their entirety, including any copies, to SELLER upon any termination of this Agreement. In the event BUYER has incorporated any of the material in the documents into its own analysis, those documents shall be destroyed and BUYER shall certify such destruction to SELLER in writing. In the event of breach by BUYER of the confidentiality provision herein, SELLER shall be entitled to any and all remedies available to it in law or equity. The terms of this confidentiality requirement shall terminate upon the Closing of this transaction.

12. **REPRESENTATIONS AND WARRANTIES OF SELLER.** SELLER hereby represents and warrants to BUYER that:

(a) It is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware and is qualified to do business and in good standing in Florida;

(b) It and its affiliated companies have the authority and power, without the necessity of consent by any person, to enter into and carry out the terms of this Agreement;

(c) The persons who have or will have executed and/or delivered this Agreement, the deed, any assignments and any and all other instruments, affidavits, certified resolutions and any other documents shall have been duly authorized to do so;

(d) It is not a party to any actions, suits, or proceedings of any kind or nature whatsoever, legal or equitable, affecting any portion of the Land or relating to or arising out of the ownership of the Land, in any court or before or by any federal, state, or local agency or other governmental instrumentality; there are no such actions, suits or proceedings pending;

(e) All bills for labor, services materials, and utilities, and all trade accounts, which could adversely affect title to the Land, are current;

(f) No work has been done upon, or materials delivered to, the Land prior to the date hereof which are not fully paid for, nor does any person, firm or corporation now have, nor shall it have after notice or passage of time, or otherwise, any lien or rights with respect to the Land or any part or parcel thereof as the result of services performed on, or materials delivered to, the Land;

(g) No person, firm or other legal entity whatsoever, other than SELLER, has any contract right or option whatsoever to acquire the Land or any portion or portions thereof or any interest or interests therein, except as provided herein or on public record;

(h) The execution and delivery of this Agreement and the consummation of the transactions contemplated herein shall not and do not constitute a violation or breach by SELLER of any provisions of any agreement or other instrument to which it is a party or to which it may be subject although not a party, or result in or constitute a violation or breach of any judgment, order, writ, injunction or decree issued against SELLER; and

(i) It has not engaged any broker or agent in connection with the sale of the Land other than the following designated broker(s), as noted:

BROKER(S)

N/A

AGREEMENT DATED

N/A

13. **REPRESENTATIONS AND WARRANTIES OF BUYER.** BUYER hereby represents and warrants to SELLER that:

(a) County is a public body corporate and politic organized under the laws of the State of Florida and it has full power and authority to execute this Agreement and to perform the obligations of the County hereunder; the individual executing this Agreement on behalf of the County is authorized and empowered to execute this Agreement on behalf of the County; and the execution of this Agreement by said individual shall bind the County to the terms and conditions of this Agreement.

(b) The execution and delivery of this Agreement and the transactions contemplated herein have been duly authorized and evidence thereof provided to SELLER;

(c) The execution and delivery of this Agreement and the consummation of the transactions contemplated herein shall not and do not constitute a violation or breach by BUYER of

(i) any provision of any agreement or other instrument to which it is a party or to which it may be subject although not a party; or

(ii) any judgment, order, writ, injunction or decree issued against BUYER;

(d) It has not engaged any broker or agent in connection with the purchase of the Land except as herein disclosed and BUYER will indemnify, defend and hold harmless SELLER from any claims, losses, damages, suits or proceedings, including attorneys fees, for commissions, fees or comparable brokerage arrangements arising by or under BUYER, from any person or entity whatsoever, including but not limited to the following designated procuring and affiliated Broker(s): **NONE**. This provision shall survive Closing or any termination of this Agreement.

14. **CONDITIONS TO SELLER'S OBLIGATIONS.** The obligations of SELLER hereunder are subject to satisfaction of the following conditions as of the date of Closing:

(a) The representations and warranties of BUYER contained herein shall be true and correct in all material respects and SELLER shall have received an officer's or general partner's certificate to such effect if BUYER is a corporation or a partnership;

(b) BUYER shall not be in material default of any of its obligations under this Agreement; and

15. **CONDITIONS TO OBLIGATIONS OF BUYER.** The obligations of BUYER hereunder are subject to satisfaction of the following conditions as of the date of Closing:

(a) The representations and warranties of SELLER contained herein shall be true and correct in all material respects and BUYER shall have received an officer's certificate to such effect, if timely requested;

(b) SELLER shall not be in default of any of its obligations under this Agreement; and

(c) BUYER shall have received a title commitment for the Land in accordance with the provisions of Paragraph 6 hereof and subject to the matters referred to in Paragraphs 2 and 6(a), and the exceptions, reservations and covenants as would arise in the Special Warranty Deed by reason of this Agreement.

16. **HUNTING RIGHTS. NONE**

17. **TIMBER RESERVATION. NONE**

18. **ENVIRONMENTAL ACCOUNTABILITY.**

(a) This transaction is a commercial transaction by which a tract of land previously used as commercial forest land has been valued by and through negotiations, and is sold and purchased by and between commercial enterprises. SELLER represents that the Land was acquired by SELLER or its affiliated predecessor in title in 1943, and has been used by it as commercial forest lands. To SELLER's best information and belief, the Land was likewise used as commercial forest lands by its predecessor in title. The records of SELLER do not reflect use at the Land of any Hazardous Materials, other than gasoline, diesel fuel, oil and grease, solvents and/or detergents as might be used ancillary to operation of motor vehicles, and small amounts of other miscellaneous materials used in connection with commercial forest land use.

(b) SELLER has no knowledge of any claim or notice of violation of any Federal, State or local law, regulation or ordinance governing the use, handling, storage or disposition at or upon the Land of any Hazardous Materials.

(c) BUYER has the opportunity to examine the Land from the inception of negotiations until Closing. It is BUYER's responsibility to have the site investigation completed prior to Closing, and Closing shall not be deferred by reason of the site investigation being delayed or incomplete. If the site investigation is delayed or incomplete, BUYER shall be deemed to have elected to proceed to Closing as if it had waived the site investigation. If BUYER's site investigation reveals the presence of Hazardous Materials which would mandate remediation under USEPA, or Florida EPD laws or regulations, BUYER shall provide immediate notice thereof to SELLER and SELLER shall have sole and exclusive responsibility to provide any notification to any federal, state or local governmental agency, if notification is required by Environmental Law. As BUYER's sole and exclusive remedy for the presence of Hazardous Materials on the Land, and upon tender and assignment of BUYER's site investigation report, including an assignment of the contract by which the report was undertaken, and all engineering, testing and supporting data, and execution of a full and complete release of SELLER and its affiliated or related companies for any claims arising under or associated with this Agreement or the purchase of the Land, BUYER shall have the right to unilaterally cancel this Agreement and demand and receive from SELLER the sums remaining deposited hereunder. At the same time

BUYER shall abandon any legal or equitable rights in the Land to SELLER and return to SELLER any title evidence, surveys or other similar documents received from SELLER and BUYER's copy of this Agreement, and comply with the provisions of Paragraph 11(g) hereunder, whereupon all rights and liabilities of the parties hereunder or in any way associated with the potential purchase of the Land shall cease, except for the provisions of Paragraph 11 and 22 and other portions of this Agreement that specifically provide that they shall survive termination of this Agreement. If on the other hand BUYER (i) does not undertake a site investigation, or (ii) a site investigation is undertaken and the report reveals no Hazardous Materials above applicable federal or state cleanup standards, or (iii) BUYER chooses not to terminate this Agreement in accordance with the above provisions, then this Agreement shall proceed to Closing. At such Closing the Land shall be conveyed from SELLER to BUYER, and as between BUYER and SELLER, for themselves, and their respective successors and assigns, the conveyance by deed shall effectuate the parties' intent that all liability and responsibility under the Environmental Laws shall be transferred to BUYER (including specifically, but without limitation, liabilities under the Comprehensive Environmental Response Compensation and Liability Act, as amended, (42 USC 9601 et seq.) ("CERCLA") and corresponding state statutory authorities, for which SELLER and its affiliated or related companies shall thereafter be held harmless and blameless by BUYER, its successors and assigns, in any proceeding or with respect to any claim.

(d) Following closing, to the extent permitted by law, or as noted hereafter, BUYER hereby agrees to indemnify, defend and hold SELLER, its affiliated or related companies and their directors, officers, shareholders, employees, affiliates, assigns and successors harmless from any claims, demands or causes of action brought pursuant to the Environmental Laws by any third party including governmental entities and agencies (including without limitation third party claims for personal injury or real or personal property damage) judgments, damages (including Natural Resource Damages as defined by CERCLA and corresponding state statutory authorities), punitive damages, penalties, fines, costs, liabilities (including sums paid in settlement of claims), interest or losses including attorneys' fees (including any fees and expenses incurred in enforcing this indemnity), consultant fees and expert fees that arise directly or indirectly from or in connection with the operation of the Land or the condition of the Land, including but not limited to the presence, suspected presence, release or suspected release of any Hazardous Material of any kind, past, present or future, whether into the environment, pavement, structures, tanks, containers, or other personalty at or on the Land or any other real property in which BUYER has or may acquire any interest. Notwithstanding any other provision in this Agreement, especially including this subsection, BUYER shall be relieved of all liability and damages from any claims, for any negligent actions of SELLER that are directly responsible for any Environmental Law violations or breaches that are referenced in, or referred to, in this Agreement.

(e) For purposes of this Agreement the following terms shall have the following meanings:

Environmental Laws shall mean all federal, state and local laws, statutes, regulations, ordinances, applicable agency guidance, administrative and judicial determinations relating to the protection of the environment, safety and health, or to any Hazardous Material, including, without limitation, CERCLA, the Resource Conservation and Recovery Act, the Clean Water Act, the Clean Air Act, the Toxic Substances Control Act and all laws pertaining to reporting, licensing, permitting, investigation or remediation of releases or threatened releases of Hazardous Materials as well as their counterpart state authorities, whether in effect as of the date of closing or subsequent thereto.

Hazardous Materials shall mean all hazardous, toxic, explosive, radioactive or harmful materials, wastes, pollutants, contaminants or substances of any kind or nature that are regulated pursuant to any Environmental Law.

19. **GOVERNING LAW.** This Agreement, and any ancillary agreements, shall be governed by and enforced in accordance with the laws of the State of Florida. Venue for any State administrative or judicial action shall be in St. Johns County, Florida.

20. **ENTIRE AGREEMENT.** This Agreement sets forth the entire agreement between SELLER and BUYER with respect to the purchase and sale of the Land, including all prior communications, whether in person, in writing, or via SELLER's website or otherwise, and the terms of this Agreement may be amended only in writing and signed by both SELLER and BUYER.

21. **COUNTERPARTS.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument.

22. **BROKER'S FEES.** SELLER and BUYER each agrees to indemnify, defend and hold harmless the other against any claims, losses, damages, suits, or proceedings, including costs and attorneys' fees (whether or not suit be brought and whether at trial or appeal) on account of any broker's fee or commission owing due to the acts or omissions of such party or alleged to be owing in connection with the purchase and sale of the Land. BUYER and SELLER agree that no real estate commission is due as a result of this transaction.

23. **NOTICES.** Notices required or permitted by this Agreement shall be given to BUYER at:

St. Johns County
Attn: Real Estate Division
4020 Lewis Speedway
St. Augustine, Florida 32084

and to SELLER at:

Kathy Terwilliger
C/O TerraPointe Services Inc.
1901 Island Walkway
Fernandina Beach, Florida 32034

with a copy to:

Tracy K. Arthur, Esq.
Southeast Law Department
Rayonier Inc.
Post Office Box 723
Fernandina Beach, Florida 32035-0723

Any notice or demand which must or may be given under this Agreement or by law shall be in writing or by electronic facsimile and shall be deemed to have been given when delivered either by a verified facsimile, personal delivery, by means of an overnight courier delivery service (such as Federal Express) or by certified mail, return receipt requested, full postage prepaid, addressed to the respective parties at the addresses stated herein. The foregoing addresses may be changed by facsimile, personal delivery or the giving of a written notice as provided in this paragraph.

24. **TIME OF ESSENCE.** Time shall be of the essence in this Agreement.

25. **NO ASSIGNMENT.** The rights of BUYER hereunder may not be assigned by BUYER without the express written consent of SELLER and any attempt to do so shall be void. So long as the assigning BUYER has obtained the written consent of all of the other BUYERS, SELLER shall not unreasonably withhold consent for such assignment. SELLER shall not convey title to the Land by means of multiple deeds, but rather by a single deed. Any assignment of such rights by BUYER shall not affect the rights of SELLER hereunder or the obligations of BUYER to SELLER hereunder, and shall be in a form prepared by SELLER.

26. **BINDING EFFECT.** This Agreement shall be binding upon and shall inure to the benefit of the heirs, legal representatives, successors and assigns of SELLER and BUYER, when executed by both SELLER and BUYER. The term "BUYER" shall include any assignee of BUYER.

27. **WAIVER.** No failure of either party to exercise any power given hereunder or to insist upon strict compliance with any obligations specified herein, and no custom or practice at variance with the terms hereof, shall constitute a waiver of any party's right to demand exact compliance with the terms hereof; provided, however, that any party may, at its sole option, waive any requirement, covenant or condition herein established for the benefit of such party without affecting any of the other terms and provisions of this Agreement.

28. **JOINT AND SEVERAL OBLIGATIONS.** If there is more than one BUYER, the agreements, obligations and representations herein shall be jointly and severally binding on each BUYER.

29. **PRESS RELEASES.** Intentionally omitted.

30. **DISCLAIMER.**

SELLER HEREBY EXPRESSLY DISCLAIMS AND NEGATES ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, RELATING TO THE CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE LAND, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY RELATING TO THE CONDITION OF THE LAND, ITS SUITABILITY FOR BUYER'S PURPOSES OR THE STATUS OF THE LAND UNDER LOCALLY APPLICABLE LAW FOR ANY PURPOSE OTHER THAN SELLER'S HISTORIC USE. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED HEREIN, THE LAND IS TO BE CONVEYED BY SELLER AND ACCEPTED BY BUYER "AS IS, WHERE IS" AS OF THE TIME OF CLOSING. ANY DOCUMENTS OR INFORMATION PROVIDED BY SELLER TO BUYER ARE AS AN ACCOMMODATION ONLY AND SELLER MAKES NO REPRESENTATIONS OR WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF SUCH DOCUMENTS. THIS DISCLAIMER SHALL SPECIFICALLY SURVIVE CLOSING AND ANY TERMINATION OF THIS AGREEMENT.

31. **EXHIBITS AND INCORPORATED PROVISIONS.** This Purchase and Sale Agreement includes and incorporates the following additional documents, which are incorporated herein by this reference:

- EXHIBIT A Sale Premises
- EXHIBIT B Survey Specifications

32. **EFFECTIVE DATE.** When used herein, the term "Effective Date" or the phrase "the date hereof" or "the date of this Agreement" shall mean the last date that either BUYER or SELLER execute this Agreement.

33. **EASEMENT.** NONE

34. **USE LIMITATION.** NONE

35. **SURVIVING PROVISIONS.** The provisions of Paragraphs 11, 12, 13, 16, 17, 18, 19, 22, 30, 33, 34 and other obligations of the parties not actually carried out by the time of Closing and noted on the closing statement or other agreement executed by the parties at Closing, shall survive the Closing and not be merged into the deed of conveyance. All other provisions of this Agreement shall be merged into the delivery of the deeds of conveyance and shall not survive Closing.

36. **EXCHANGE.** The parties hereby acknowledge and agree that either SELLER or BUYER may elect to consummate the purchase and sale of the Property as part of a like kind exchange (the "Exchange"), pursuant to §1031 of the Internal Revenue Code of 1986, as amended (the "Code"), provided that (i) the Closing shall not be delayed or affected by reason of any Exchange nor shall the consummation or accomplishment of any Exchange be a condition precedent or condition subsequent to BUYER's or SELLER's obligations under this Agreement; (ii) the party consummating the Exchange ("Exchanging Party") shall not be released from any of its obligations under this Agreement; and (iii) the Exchanging Party shall pay any additional costs that would not otherwise have been incurred had the Exchanging Party not consummated the sale or purchase of the Property through the Exchange.

37. **ACCEPTANCE.** Should this Agreement not be accepted, signed, and received by SELLER (together with BUYER's Earnest Money Deposit) **on or before 5:00 p.m. EST on the 3rd day of February, 2009** said Agreement shall be deemed null and void.

THIS DOCUMENT CONSTITUTES AND PRESENTS FOR BUYER'S REVIEW THE USUAL TERMS UNDER WHICH SELLER, TERRAPOINTE LLC, WILL CONSIDER OFFERS FROM BUYER FOR REAL ESTATE PURCHASE REQUESTS, AND DOES NOT CONSTITUTE AN OFFER BY SELLER TO SELL THE LAND IDENTIFIED HEREIN ON THE STATED TERMS, OR UPON ANY TERMS. THIS DOCUMENT WILL BE TREATED AS AN AGREEMENT OF PURCHASE AND SALE ONLY WHEN SIGNED BY A VICE-PRESIDENT OR PRESIDENT OF TERRAPOINTE LLC, OR THEIR AUTHORIZED DESIGNEE.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement which shall be effective as of the date signed by the last party hereto.

Witnesses:

BUYER:

ST. JOHNS COUNTY, FLORIDA

A political subdivision of the
State of Florida

Witness #1

By: _____ (Sign)

Michael D. Wanchick (Print)

Witness #2

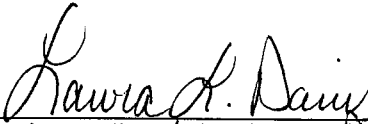
Its: County Administrator (Title)

As to BUYER

Date: _____

SELLER:


TERRAPOINTE LLC



Witness #1 Laura H. Davis

By: _____ (Sign)

TREACY K. ARTHUR (Print)



Witness #2

Its: Vice President (Title)

As to SELLER
KATHRYN P. TERWILLIGER

Date: Dec. 17, 2008

CMP 1 - 43

EXHIBIT A

Sale Area



SR-206

US 1

14
0/0

RD. 11

3255

3355

0/0
borrow

S704C

S704C

S693C

ST 6
S693C

SSD/CR

RD. 14

3254

RD 14

FLAGLER

CMP 1-43

DATE: 05 Mar 08



Entity = RAYR

Landline Miles = 0.4

Rayonier Acres

197

Stand Acres

195.6

Rayonier

Southeast Forest Resources

TRACT: Rayland
COUNTY: 'St. Johns'

EXHIBIT B
STANDARD SURVEY SPECIFICATIONS

At a minimum, the survey of the Land will comply with the following specifications:

In Florida all surveys will be performed in accordance with the Minimum Technical Standards for Surveys as specified in Chapter 472, Florida Statutes and Chapter 61G17-6 of the Florida Administrative Code.

In Georgia all surveys will be performed in accordance with the Technical Standards for Property Surveys as specified in the Official Code of Georgia Annotated Section 43-15 and Georgia Rules and Regulations Chapter 180-7.

Notwithstanding the provisions of the statutory requirements contained in the rules referred to above TerraPointe requires the following:

1. Point of Beginning. The Point of Beginning must be referenced as an x, y coordinate in the corresponding state plane coordinate. If unable to provide the x, y coordinate in the corresponding state plane coordinate, then the Point of Beginning must be referenced to a known, easily identifiable point on the ground which shall be clearly described and depicted on the plat of the survey.

2. Blazing. All survey lines which are **common with remaining (after transaction) TerraPointe or Rayonier ownership** are to be hacked and blazed. No blazing of any kind is to be made on any line other than the line that is final. All trees greater than or equal to 3 inches in diameter at breast height (4.5 feet above ground level) that can be touched while a person is standing on the final line shall be blazed. A blaze with three hacks below it is standard. A chip of wood is to be removed when making each blaze and hack, the bottom of each should have an upward slant so that no water holding, rot inducing, pocket is formed; this is especially important in hardwoods. Hacks need not be large but should remove a chip of wood; they should be spaced far enough apart on the trunk that there is little chance of slabbing off the area between the blazes (8"± is suggested). Trees on line are to be marked the same way as the others, except that the marks will indicate where the line enters the tree. Corner witnesses, one in each quadrant if possible, will face the corner, a standard "X" and three hacks will be used.

If the surveyed line runs through an open area or an area with trees too small to blaze, a treated fence post 3 inches in diameter and 6 feet, 6 inches in length must be set at intervals no more than 100 feet apart on the final survey line. Each post shall be marked with blue flagging tape.

3. Monumentation. Concrete monuments will be utilized for corners. Corners will be placed at each change of line direction (except branch and swamp centerlines). Corners will be placed on each right-of-way line when a boundary crosses an excluded road. If any turning points or other

points on the final line are marked with visible materials of a permanent nature, such as pipes or re-enforcing rods, they must be shown on the final plat. No such permanent objects are to be left in place on trial lines. Whenever possible, each corner will be witnessed by at least three trees.

4. Plats. TerraPointe shall receive five (5) certified and sealed copies and one reproducible copy (mylar) of the survey drawing. The plat shall show: signature; surveyor's certificate; date of survey; county; section, township and range (Florida only); Land lot number; Land district, Georgia Militia District (Georgia only); scale; north arrow; unadjusted error of closure; legend of monumentation symbols; record monuments called for, including abutting streets and easements; found physical monuments that locate the record monuments; notation of monuments called for but not found; all monuments set and their descriptions; easements of record; encroachments and possession on the title lines; pertinent topography and fences; acreage of total tract; acreage of any closed figure within total tract; acreage in any wholly included exception, acreage in each county where applicable; acreage in all excluded roads; county, state and federal road numbers; expression of measurements on all lines, direction, distance, coordinates, and curve data; community distance (miles) and direction ties on roads, county map accuracy is sufficient.

TerraPointe shall receive survey boundary data in digital form on a 3.5 inch diskette. Data format supplied in ArcInfo, Autocad.dxf or ASCII files (preferred). This data shall contain a minimum of 4 (four) sets of coordinates derived from field measurements sufficient to register the data into a Geographic Information System.

5. Legal Description. A typed legal description on 8 ½" by 11" paper is to be furnished suitable to serve as an attachment to a legal document for recordation in the public record. This legal description should be checked against the legal description and/or calls on the plat to verify that they match.

6. Surveyor's Report. A signed, written report detailing any abnormalities such as line or corner disputes, adverse possession, conflicting title, etc. is to be submitted along with the final plat. Copies of conflicting deeds, plats or other pertinent information should be attached to the report. Corner and line placements which are based on the surveyor's judgment or common practice rather than on the ground evidence are to be fully explained. A report, even if it is negative, is required.