

- Note:
1. This is a construction contract to be used with suppliers who provide construction services from time to time to the mills. This can be used for COST PLUS and/or FIXED PRICE WORK.
  2. The agreement lasts a year and may contain an evergreen clause.
  3. Individual service jobs are incorporated into the agreement by attaching a work schedule.
  4. This agreement provides that the cost plus rates are as provided in Appendix D to the General Conditions.
  5. This agreement is to be used with the General Conditions, Construction and mill specific Special Conditions.

**MASTER CONSTRUCTION AGREEMENT NO. \_\_\_\_\_**

This Agreement is made effective as of \_\_\_\_\_, 201\_.

BETWEEN:

**CPOI dba ND Paper**, a Delaware corporation having an office at  
1209 Orange St, City of Wilmington, County of New Castle, DE  
19801, USA

(the “**Owner**”)

AND:

\_\_\_\_\_, a \_\_\_\_\_ corporation having an  
office at \_\_\_\_\_

(the “**Contractor**”)

**WHEREAS:**

- A. The Owner may require, from time to time, at its mill in Wisconsin Rapids, Wisconsin (also known as the Biron mill) and/or Rumford, Maine (each, the “**Mill**”) **[insert general description of services to be provided by Contractor]**, as further described in Schedule A.
- B. The Contractor wishes to perform the Work on the terms and conditions contained in this Agreement.
- C. The Owner, in reliance on the Contractor’s representations and warranties contained herein, wishes to retain the Contractor to perform the Work.
- D. The foregoing recitals are made as representations and statements of fact and shall form part of this Agreement.

NOW THEREFORE THIS AGREEMENT WITNESSES THAT in consideration of the terms, conditions and covenants herein set forth, the parties agree as follows:

1. **SAFETY**

The Contractor acknowledges that safety is of utmost importance to the Owner and agrees to abide by all of the Owner’s safety directions, policies, rules and regulations.

2. **CONTRACT DOCUMENTS**

(a) The Contract shall consist of the following Contract Documents:

- Master Construction Agreement (“this Agreement”)
- Schedule A General Description of Work
- Schedule B Form of Work Schedule

Schedule C General Conditions (including all appendixes thereto)

- Appendix A Construction Schedule
- Appendix B Address for Invoices
- Appendix C Cost Record/Cost Estimate Form
- Appendix D Cost Plus Labour Charge-Out Rates
- Appendix E Confidentiality Provisions
- Appendix F Unit Price Rate Sheet

Schedule D Special Conditions **[Rumford only, remove if Biron]**

together with all Work Schedules and purchase orders issued and accepted pursuant to section 4. Capitalized terms used but not otherwise defined in this Agreement shall have the meanings given to them in Schedule C.

- (b) The Contract supersedes all previous agreements, whether oral or in writing, including the bidding documents, if any, and including the Master Construction Agreement No. [#] between the parties dated [date], as amended by Amendment #1 dated insert date], which the parties acknowledge and agree is hereby terminated and replaced with this Agreement. This Agreement may be amended only as provided for in the General Conditions.
- (c) The Contract Documents shall constitute the entire agreement between the Contractor and the Owner. In the event of any conflict or inconsistency between the provisions of this Agreement and the provisions of the other Contract Documents, the provisions of this Agreement shall govern.

**BY EXECUTING THIS AGREEMENT, THE CONTRACTOR ACKNOWLEDGES, REPRESENTS AND WARRANTS THAT IT HAS READ, UNDERSTANDS AND AGREES TO ALL OF THE FOREGOING CONTRACT DOCUMENTS.**

3. **WORK**

The Contractor shall, from time to time during the Term, perform the Work in accordance with the provisions of the Contract Documents, including all applicable Work Schedules and purchase orders.

4. **DELIVERY AND SCOPE OF SERVICES**

- (a) The Owner shall advise the Contractor of specific Work to be performed by delivery to the Contractor of: (a) in respect of Work valued at \$100,000 or greater, a completed Work Schedule substantially in the form of the work schedule attached as Schedule B, together with a purchase order in the Owner's standard form (together, a "Work Schedule"), or (b), in respect of Work valued at less than \$100,000, a purchase order in the Owner's standard form. For further clarification, any Work required by the Owner from the Contractor shall not require a Work Schedule if the value of the Work is less than \$100,000. The Contractor shall notify the Owner within 48 hours of receipt of a Work Schedule or purchase order of its acceptance thereof by e-mailing to the Owner a signed copy of the Work Schedule or confirming by telephone or e-mail its acceptance of the purchase order. Commencement of any Work under a Work Schedule or purchase order shall constitute acceptance of the terms thereof. All accepted Work Schedules and purchase orders shall be incorporated into and form part of this Agreement. If the Contractor notifies the Owner that it accepts a Work Schedule or purchase order, the Contractor shall perform the Work upon the terms and conditions contained in the Work Schedule or purchase order and this

Agreement. Any additional pre-printed or standard terms and conditions attached or referred to in any purchase order shall not apply to this Agreement.

- (b) This Agreement is **not [NTD: amend accordingly]** exclusive and the Owner is not required to offer all Work to the Contractor.

## 5. **ACCESS TO INFORMATION**

- (a) Any detailed working drawings, specifications or cost estimates prepared by the Contractor under this Agreement shall be made available for review by the Owner prior to commencing the Work.
- (b) The Contractor shall have timely access to any available information necessary for the proper performance of the Work in accordance with a Work Schedule or purchase order (as applicable).
- (c) The Contractor shall deliver to the Owner all data, test results or other information, if any, relating to the services performed by the Contractor in the performance of its obligations under this Agreement and ownership of such information shall vest in the Owner.

## 6. **REPRESENTATIVES**

The Owner shall designate in writing one or more representatives at the Mill, which representatives shall be in charge of supervising the Work for the Owner at the Mill and the Contractor agrees that the Work will be subject to the direction of the Owner's representatives. The Contractor shall act in full cooperation with the Owner's representatives in the performance of the Contractor's services under this Agreement. The Owner's designated representatives shall be identified on each individual Work Schedule or purchase order applicable to the Work and the Owner shall give written notice to the Contractor of any changes to the designated representatives.

## 7. **PERSONNEL**

- (a) For the purpose of providing the services contemplated by this Agreement, the Contractor shall furnish the necessary personnel. All personnel shall be competent and qualified for the services to be performed by them. Prior to the commencement of any Work at the Mill, the Contractor shall provide the Owner with the names of the personnel who will be attending at the Mill. The Owner reserves the right to approve all personnel assigned by the Contractor to perform services hereunder.
- (b) The Contractor shall be responsible for restricting the movement of its personnel to work areas at the Mill designated by the Owner.

## 8. **PROFESSIONAL RESPONSIBILITY AND OBLIGATIONS**

Without limitation, the Contractor shall:

- (a) perform the Work in a good and workmanlike manner;
- (b) provide the standards of care, skill, and diligence normally provided by a professional in the performance of the services contemplated by this Agreement;
- (c) ensure that its personnel do not interfere with the operation of the Mill;

- (d) cause its personnel to comply with all applicable rules and regulations at the Mill and to cooperate with other contractors and the Owner's employees in performing the Work;
- (e) comply with the General Conditions attached hereto as Schedule C;
- (f) comply with the Special Conditions attached hereto as Schedule D; **[only for Rumford, if Biron only remove this wording]**
- (g) comply with all applicable federal, state and local authorities, laws, regulations, standards and orders which relate in any way to the performance of the Work;
- (h) maintain all permits, licenses and registrations which the Contractor is required to secure in order to lawfully provide services hereunder;
- (i) remove any of its personnel from the Mill who have, in the opinion of the Owner, conducted themselves in an inappropriate manner; and
- (j) promptly pay as they become due, all charges, remittances or deductions for or relating to labour, materials, supplies and services used or relating to the services provided hereunder.

## 9. **COMPENSATION**

- (a) All Work will be performed on either a fixed price or a cost-plus basis. If the Work is to be performed on a fixed price basis, the price for the Work shall be specified in the Work Schedule or purchase order applicable to the Work. If the Work is to be performed on a cost-plus basis, the price for the Work shall be specified in the Work Schedule or purchase order applicable to the Work and the costs will be calculated in accordance with the rates described in Appendix D.
- (b) In the event that the Owner requires the Contractor to perform any services in addition to the Work, the fees to be charged for such services shall be agreed to in writing by the parties prior to the performance of such services.
- (c) Amounts payable by the Owner to the Contractor under sections 9(a) and 9(b) shall be invoiced bi-weekly by the Contractor or upon completion of the Work required by a particular Work Schedule or purchase order (whichever is sooner) and shall be paid net forty-five (45) days from the date of receipt of the Contractor's invoice at the Owner's Accounts Payable department.
- (d) All invoices delivered by the Contractor to the Owner under this Agreement shall include the Work Schedule number or purchase order issued by the Owner to the Contractor in respect of the Work and shall be addressed to the address set out in the purchase order.

## 10. **ENVIRONMENT**

In performing the Work the Contractor shall comply, and shall ensure that its employees, representatives and agents comply, with:

- (a) all applicable laws of federal, state, and local authorities governing the environment; and

- (b) the rules, regulations and directions of the Owner from time to time governing the protection and preservation of the environment at the Mill including, without limitation, as set out in the General Conditions attached in Schedule C (as may be applicable to the Work).

11. **ENERGY REQUIREMENTS**

The Contractor acknowledges the Owner's desire to maximize energy efficiency and agrees to take this into consideration in performing its obligations under this Agreement. The Contractor agrees to use commercially reasonable efforts to utilize the best energy practices and technologies relating to the Contractor's industry, to demonstrate energy conservation in its processes and to supply energy efficient equipment and services.

12. **WARRANTIES**

- (a) The Contractor represents and warrants:
  - (i) that it has the skill and expertise to perform the Work;
  - (ii) that the Work will be of good and workmanlike quality free of any and all defects in material or workmanship;
  - (iii) that it has the right to sell the Materials associated with the Work, if any, and the Materials will be free of all liens, encumbrances and other charges and the Owner will enjoy quiet possession of the Materials; and
  - (iv) that the Work will be performed in accordance with the Contract Documents.
- (b) The foregoing warranties and representations are limited to the "Warranty Period (as hereinafter defined), except as to claims based on defects or deficiencies in Materials or workmanship not apparent on a visual inspection of the Work or any Materials or components or parts thereof. If the Owner does not give notice to the Contractor of such claims within one year following the date on which the Owner discovers such claims, such claims shall be deemed waived by the Owner.
- (c) The Contractor agrees that the "Warranty Period" for Work performed under each Work Schedule or purchase order (as applicable) shall end on the date that is twelve (12) months from the date that the particular work under the Work Schedule or purchase order (as applicable) is completed (which date shall be the date of completion as indicated on the applicable Work Schedule or purchase order or such other date as may be determined by the Owner and confirmed in writing to the Contractor).
- (d) To the extent not inconsistent with this section 12, all provisions of GC23 shall apply to the warranties granted herein.
- (e) All warranties shall continue in full force and effect notwithstanding any expiry or termination of this Agreement.

13. **INSURANCE**

The Contractor shall procure and maintain in full force and effect during the Term, insurance on terms satisfactory to the Owner in accordance with GC47 and shall, upon

request by the Owner, or upon request from a third party on behalf of the Owner, furnish the Owner with satisfactory documentary evidence of such insurance.

14. **FORCE MAJEURE**

Neither party shall incur any liability to the other by reason of a failure or delay in fulfilling its obligations under this Agreement, where such failure or delay is due to or results from events beyond the control of the party affected by such cause, including without limitation, weather conditions, fire, flood, strikes, cessation or slowdown of labour, sabotage, shipwreck, extraordinary breakdowns, riot, war, or any other similar cause.

15. **TERM AND TERMINATION**

- (a) The initial term of this Agreement shall be one (1) year (the "Initial Term"). This Agreement shall automatically renew for successive one (1) year periods (each a "Renewal Term") unless one party provides the other written notice of its desire not to renew this Agreement not less than thirty (30) days before an anniversary date. "Term" means the Initial Term and any Renewal Term then in effect. This Agreement shall apply to all Work performed pursuant to all Work Schedules and purchase orders accepted by the Contractor prior to the date of termination. If Work is being performed under any Work Schedule or purchase order at the time of termination of this Agreement, this Agreement shall continue in effect until such Work is completed.
- (b) The Owner may terminate this Agreement for any reason whatsoever upon thirty (30) days' prior written notice to the Contractor. The Owner may terminate any Work Schedule or purchase order upon three (3) days' prior written notice to the Contractor.
- (c) Upon termination, the Owner shall pay to the Contractor all amounts owing for all Work performed up to the date of termination, subject to receipt of satisfactory invoices.
- (d) Upon receipt of a notice of termination, the Contractor shall take all necessary steps to reduce, with as much speed and with as little cost to the Owner as is practicable, the services then being provided under this Agreement.

16. **INDUSTRIAL SAFETY**

- (a) The Contractor shall become familiar with the Owner's premises and operations in respect of which the Contractor's services are rendered and comply with the provisions of any Special Conditions attached as Schedule D to this Agreement. The Contractor shall assume all risks of injury to the Contractor, its employees, representatives, or agents of the Contractor and damage to the property of any of them in connection with the performance of its services under this Agreement, unless and to the extent such injury or damage is caused by the negligence of the Owner.
- (b) The Contractor shall ensure that its employees, representatives, or agents have been indoctrinated in the Owner's safety requirements prior to arriving at the Mill. Employees of the Contractor who have not been so indoctrinated or who are found in violation of the Owner's safety rules shall be removed from the Mill.
- (c) The Contractor and all equipment supplied by the Contractor shall comply with all current workers' compensation laws and regulations.

- (d) The Contractor shall be responsible for the operation, storage and maintenance of all equipment supplied by the Contractor at the Mill and shall take all necessary precautions against risk of loss of life and injury to employees of the Contractor or the Owner.
- (e) The Contractor shall ensure that its employees, representatives and agents comply with all applicable safety, security rules, policies, directions and other requirements applicable to the Owner's personnel while at the Mill.

17. **INDEMNITY**

The Contractor shall indemnify, defend and hold the Owner, its affiliates and their respective officers, directors, agents and employees harmless from and against any claims, losses, damages, liabilities or expenses (including reasonable attorneys' fees and expenses) arising out of or resulting from: (i) death or any personal injury or property loss or damage arising out of the Contractor's, its subcontractor's or either of their agent's or representative's negligence or willful misconduct; (ii) the Contractor's, its subcontractor's or either of their agent's or representative's violation of any law, rule or regulation; (iii) the Contractor's breach of any representation, warranty or covenant provided in the Contract.

18. **NOTICES**

Any notice, document or communication required or permitted to be given hereunder will be in writing and delivered by hand, courier or electronic mail ("e-mail") to the party to which it is to be given as follows:

If to the Owner, to the relevant Mill:

CPOI dba ND Paper  
Rumford Division  
35 Hartford Street  
Rumford, ME 04276  
Attention: Moe Poulin, Supply Manager, Capital & Services  
E-mail: [moe.poulin@us.ndpaper.com](mailto:moe.poulin@us.ndpaper.com)

**Or [select appropriate mill if only one]**

CPOI dba ND Paper  
Biron Division  
621 North Biron Drive  
Wisconsin Rapids, WI 54494  
Attention: Kirk Freeberg, Purchasing Manager  
E-mail: [kirk.freeberg@us.ndpaper.com](mailto:kirk.freeberg@us.ndpaper.com)

with a copy to (other than invoices, statements and Purchase Orders):

CPOI dba ND Paper  
c/o ND Paper LLC  
Suite 600, 1901 S Meyers Rd.  
Oakbrook Terrace, IL 60181  
Attention: Legal Department  
E-mail: [contract.notices@us.ndpaper.com](mailto:contract.notices@us.ndpaper.com)

and:

to the Owner's Representative identified on the applicable Work Schedule or purchase order per the contact details specified in that Work Schedule or purchase order.

If to the Contractor:

Contractor Name

Address

Address

Attention: [name, title]

E-mail:

or to such other address or e-mail address as either party may in writing advise by notice given in accordance with this section. Any notice, document or communication will be deemed to have been given: (i) if delivered by hand or courier on the next business day after delivery; and (ii) in the case of delivery by e-mail, on the next business day after delivery provided that an electronic confirmation of delivery has been obtained by the sender.

19. **INDEPENDENT CONTRACTOR**

The relationship of the parties shall be that of owner and independent contractor and nothing contained in this Agreement shall be construed as establishing a relationship of principal and agent, master and servant or employer and employee.

20. **ASSIGNMENT AND THIRD PARTIES**

The Contractor shall not assign this Agreement nor any part of the services to be performed by the Contractor under this Agreement without the prior written consent of the Owner.

21. **AMENDMENTS**

No amendment to this Agreement, a Work Schedule or a purchase order shall be binding unless the Contractor and the Owner agree in writing.

22. **BINDING EFFECT**

This Agreement shall enure to the benefit of and be binding upon the parties and their respective successors and permitted assigns.

23. **GOVERNING LAW AND COMPLIANCE**

The Contract shall be governed by and construed in accordance with the laws of the State in which the Mill is located, without regard to principles of conflicts of law. Venue for any legal action arising out of or relating to the Contract shall be exclusively in such State. The parties hereby consent to the jurisdiction of such courts. The Contractor agrees to comply, and to cause its subcontractors to comply, with all laws and regulations applicable to the Work and any other services or Materials provided in connection with the Contract.

24. **TIME**

Time is of the essence of this Agreement.

IN WITNESS WHEREOF this Agreement has been duly executed as of the day and year first above written.

**CPOI dba ND Paper**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**[FULL LEGAL NAME OF CONTRACTOR]**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**SCHEDULE A**

**GENERAL DESCRIPTION OF WORK**

**[insert overview from contractor]**

**SCHEDULE B**

**WORK SCHEDULE**

Date: \_\_\_\_\_ Contractor's Name: \_\_\_\_\_

Mill Contact: \_\_\_\_\_ Work Scope: \_\_\_\_\_

Phone: \_\_\_\_\_ Mill: \_\_\_\_\_

CER/MER#: \_\_\_\_\_ Purchase Order #: \_\_\_\_\_

E-mail: \_\_\_\_\_

This Work Schedule is issued pursuant to the **Master Construction Agreement** No. [agreement # & any amendments] dated [agreement date] (the "Agreement") between CPOI dba ND Paper and [contractor name] (the "Contractor").

Description of Work to be performed: \_\_\_\_\_

Construction Schedule: \_\_\_\_\_ (Attach as Appendix A, if applicable)

Compensation: Fixed Price: \_\_\_\_\_  
(Attach Cost Record Form – Appendix C)

Cost-Plus: \_\_\_\_\_  
(Attach Appendix C Cost Estimate Form – Appendix C)

Project Specific Procedures: ◆

Date of Commencement of Work: ◆

Date of Completion of Work: ◆

The Owner's Designated Representative ◆

All Work must be performed in accordance with, and completed within the time set forth in, this Work Schedule, including, without limitation, the Construction Schedule (if applicable).

The Contractor accepts this Work Schedule and agrees to perform the Work described herein in accordance with the terms of this Work Schedule and the Agreement.

[insert any special terms: builder's lien, liquidated damages, etc.]

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

**SCHEDULE C**  
**GENERAL CONDITIONS**

**See attached**

**SCHEDULE D**

**SPECIAL CONDITIONS**

(See attached)

- Rumford – Version 2015 Rev. 1

**[Rumford only, remove if for Biron]**