

TIMBER SALE AGREEMENT

This Agreement is made this DATE by and between:

Seller: Purchaser:

Address: Address:

Tel#: Tel #:

SS# or Federal ID # SS# or Federal ID #:

(This Agreement refers to "Seller" and "Purchaser" throughout. Where more than one Seller or Purchaser is a party to this Agreement, references to "Seller" or "Purchaser", as applicable, shall mean all Purchasers or Sellers jointly and severally.)

I. Sale of Forest Products: The Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller forest products in accordance with the terms and conditions stated in this Agreement:

II. Property Location/Access/Boundaries: Seller grants to Purchaser permission to enter Seller's land, and to harvest and remove the forest products listed in this Agreement from the areas designated by Seller upon the terms and conditions of this Agreement.

A. Lot Location and Description Seller's land ("the Lot") subject to this Agreement is located in **Town, County, and State – Include property name is applicable:**

Determination of Area to be Cut/Survey

The area to be cut contains approximately _____ acres.

Check appropriate provision

The entire Lot is subject to the terms of this Agreement.

Only a portion of the Lot will be subject to harvest operations.

The areas upon which Purchaser may enter and cut are depicted on the Map attached as **Exhibit A**.

B. Marking Boundaries On land where 10 acres or more is to be harvested, the property owner is by law responsible for clearly marking the property line if the cutting is being done within 200 feet of the property line (Title 14 MRSA § 7552A). With respect to this requirement, the responsibility to mark boundary lines, regardless of the acreage to be harvested, shall be met as follows:

Check appropriate provision:

___ Seller shall be responsible for marking property lines prior to Purchaser's cutting. The property lines along the harvest area have been flagged with orange ribbon.

___ Purchaser shall determine and mark the property lines at Purchaser's costs before commencing harvesting activities. If applicable, Purchaser, in marking the boundaries is relying on the following information provided by Seller: (Identify plans or survey information.)

___ Less than ten (10) acres will be harvested and/or limits of the cutting area are sufficiently within the interior of the Lot to be more than 200 feet from the nearest property line. Therefore, neither Seller nor Purchaser is obligated under this Agreement to mark boundary lines. Notwithstanding the parties' waiver of any survey requirements under this Agreement, Purchaser shall be responsible for overseeing the cutting operation to ensure that cutting occurs only in the designated areas, and that timber trespass is avoided.

Trees on the boundary line with adjacent landowners shall not be cut.

C. Access

1. Access **Shall be Provided by:**

Check appropriate provision.

___ Access will be provided by Seller from the _____ Road to the designated cutting areas over and upon the Lot as shown in **Exhibit A**, unless stated otherwise below. If Seller has designated or obtained access rights over lands of others to be used by Purchaser, Seller hereby assures Purchaser that Purchaser may exercise such rights of access without further grant or permission from the other landowners.

The Purchaser shall be responsible for all necessary road and yard improvements, as detailed in **Exhibit C**.

Description of access provided by Seller, if other than over Seller's Lot from a public way: (Identify title document, license or other source of Seller's right of access.)

___ Purchaser shall be responsible for obtaining such access at Purchaser's cost. Harvesting operations will not proceed until Purchaser has obtained all necessary licenses, permits or other legally binding permissions from other landowners to travel over their land.

2. Purchaser 's Use of Access: Purchaser shall abide by the terms, rules and regulations governing Seller's or Purchaser's rights of access to the Lot.

D. Seller's Title: Seller is the owner of the Lot and the timber on the Lot in accordance with a conditional deed. Subject to these deed conditions, it has the full authority to sell the timber under the terms of this Agreement. Purchaser shall be responsible to comply with any deed conditions applicable its obligations under this Agreement

III. Term: Purchaser shall commence harvesting on _____ and shall complete harvesting by _____ unless this Agreement is terminated or extended by the parties in writing.

IV. Description of Timber to be Cut and Removed: Within the designated harvest area, all fir and popple trees and only other trees that are marked at about 4.5' above ground with blue paint shall be cut and removed. The estimated harvest volumes are described in Exhibit B.

V. Purchase Price and Payment: The purchase price for the forest products as scaled or measured under the terms below shall be as set forth in Exhibit B. Payment shall be made weekly at the Agent's address as specified below .Legible scale slips shall accompany each payment.

VI. Seller's Designated Forester or Agent: For purposes of oversight of Purchaser's compliance with this Agreement, in addition to review by Seller, the person named below is designated agent of Seller:

Name of Seller's forester/agent:

Forester's/agent's address:

Telephone number:

The Seller's forester/agent shall be the agent of Seller with authority to review and approve forestry activities on the land during the term of this Agreement, and Purchaser shall consult with the forester/agent and abide by the forester's/agent's determinations and instructions to the Purchaser during all stages of the harvest under this Agreement.

VII. Purchaser's Status: Notwithstanding any other provision of this Agreement, no relationship of employer/employee or master/servant between the Seller and the Purchaser or between the Seller and any agent, employee or subcontractor of the Purchaser shall be deemed to exist. Purchaser shall select its own employees, set rates of pay and all terms and conditions for employment, and pay Purchaser's own employees, agents or subcontractors .Neither the Purchaser nor its employees, agents or subcontractors shall be subject to any orders, selection, supervision or control of the Seller. It is mutually understood and agreed that the Purchaser is deemed to be an independent contractor. Nothing herein contained shall prohibit the Purchaser from contracting to purchase and harvest forest products on land of others.

VIII. Purchaser's Responsibilities: Purchaser shall employ and utilize the equipment and personnel necessary to perform the harvesting contemplated under this Agreement in a timely manner. Purchaser shall be solely responsible for the acquisition, maintenance, replacement and repair of its equipment, and for the selection, training, supervision, control, direction, compensation, work rules, discipline and termination of its employees or subcontractors. Purchaser's employees will perform in accordance with the requirements of this Agreement when assigned to the work to be performed hereunder. Purchaser will equip and train its employees and subcontractors adequately to perform the required services in a safe, timely and lawful manner.

Purchaser shall conduct Purchaser's business to be at all times in full compliance with all requirements of federal, state, and local law, including applicable common law, statutes and requirements, and including but not limited to the requirements of the federal Fair Labor Standards Act, all federal and state labor and employment laws, federal immigration laws, the workers' compensation laws, federal and state equal employment laws, the Internal Revenue Code and state tax laws and regulations, the unemployment insurance laws, the federal Occupational Safety and Health Act of 1970, as amended, and its regulations, state laws pertaining to occupational safety and health, state laws and regulations pertaining to wood harvesting, and any other laws or governmental rules and regulations pertaining to the services to be provided hereunder.

Purchaser will ensure that full timely payment is made:

1. for all employee wages and benefits, fuel and supplies;
2. for the lawful disposal of any regulated or hazardous waste or substances it handles; and
3. of any and all contributions or taxes for unemployment insurance, old age retirement benefits, workers' compensation or any other such employee entitlements now or hereafter imposed by law.

Purchaser is and will remain in compliance with the Maine Workers' Compensation Act and Maine Employment Security Law.

Purchaser may not contract with a third party to perform any part of the harvest operations contemplated under this Agreement without the prior written consent of Seller. All subcontractors shall be deemed agents of Purchaser for purposes of this Agreement.

IX. Forestry Practices: The following are minimum forestry practices applicable to this Agreement. Purchaser shall, at Purchaser's sole cost and expense, harvest the designated types of species of wood from the designated cutting areas during the term of this Agreement in accordance with the accepted principles of professional forestry, the Maine Forest Practices act and rules and regulations promulgated under 12 M.R.S .A. Chapter 805, Subchapter III-A, and the following agreed standards of performance.

A. Harvest Notification The Purchaser shall conform to all requirements of Title 12, § 8883 of the Maine Revised Statutes. The FON for this agreement is #450742, which expires on 12/6/14.

The Agent shall retain a copy of the notification form and, unless otherwise specified below, shall be responsible for reporting harvest information in compliance with Maine law. The Agent shall provide copies of the reports to Seller at the time they are submitted to the Maine Forest Service.

B. Scaling All harvested forest products shall be measured as specified below:

Sales of volume shall be measured in standard cords, board feet, tons, or pounds in accordance with the Wood Measurement Rules. The Buyer shall be responsible for affixing Maine Tree Farm #2911 stickers on each of the trip tickets, prior to their delivery to a mill or log yard.

Scaling of products, including scaling procedures and scaling records, shall be carried out and maintained in accordance with the directions of Seller. In the event that scaling is done on the Lot at harvesting site, it shall be done by a person or persons acceptable to Seller (who shall in any event be State licensed scalers) and the cost of scaling shall be paid by Purchaser. In the event that scaling of products is done off premises, it shall be done at a place acceptable to Seller.

Reports of volume (legible stumpage sheets, measurement tally sheets or the like) shall be provided in full to Agent on a weekly basis by Purchaser as wood is delivered to receiving mill.

Further, Purchaser shall forward a weekly report showing in full the volumes for all wood products hauled from the Lot. Such volumes reports will include the following:

- the name of the harvest contractor or subcontractor
- date and time of loading
- product type and species
- mill of destination
- the name of the hauler
- name and license number of the scaler(s)

C. Utilization Requirements

1. Harvesting shall proceed in an orderly manner from the back of the lot to the front or in an equivalent manner to completion of cutting in all areas designated for harvest. Only wood designated by the Seller's agent shall be harvested.

2. Small end diameter shall not be less than the minimums specified by purchasing mills for types of wood and product.

C. Condition of Roads Purchaser shall, at its expense, construct roads, and skidder trails in accordance with the appropriate rules of the Department of Environmental Protection, any applicable municipal ordinances and State Best Management Practices.

Purchaser shall maintain and leave any existing access roads in the same or better condition than when harvesting began. The cleared size of landings shall not exceed that needed for sale and efficient skidding, chipping and/or loading operations.

At the completion of the harvesting activities, any newly constructed roads, trails, clearings or other similar disturbance of the soil shall be stabilized as follows: yard -mulched with hay and seeded with winter rye.

E. Transportation Facilities Purchaser may construct and maintain roads, bridges and other access appurtenances as needed for harvesting, according to specifications detailed in **Exhibit C**.

Check appropriate provision:

___ Purchaser is authorized to cut and use timber for construction, without charge, for forest product transportation facilities located on Seller's Lot. Un-merchantable timber shall be used for such facilities to the extent practical.

___ Timber cut from the Lot by Purchaser and used in construction of transportation facilities, including road construction, shall be paid for by Purchaser at the rates applicable under this Agreement.

G. Slash Purchaser shall be responsible for disposing of all slash resulting from harvesting operations, so that none shall remain on the ground within twenty-five (25) feet of the adjoining property lines. For purposes of this paragraph, adjoining property lines shall include, in addition to land of third parties, the boundaries of railroad rights of way, and electric power, telephone, pipeline and other utility easements. Purchaser shall also remove all slash a distance of fifty (50) feet from the bounds of any adjoining highways or public ways.

Purchaser shall not place, deposit or discharge, directly or indirectly into any inland or tidal waters, or on the ice or banks of such waters, any materials resulting from the harvest of forest products (including slabs, edgings, sawdust, shavings, chips, bark or other forest products refuse) in such a manner that they may fall or be washed into such waters or in a manner which would allow drainage from such deposits to flow or leach into such waters.

H. Litter/Pollution Avoidance Purchaser shall not discard or otherwise dispose of litter on the property of Seller or any private property, into waters of the State or on ice of such waters, or upon any adjacent highway or public way, and shall be responsible for off-site disposal of garbage and refuse generated by forest operations in a lawful manner. For purposes of this paragraph, litter means all waste materials, including bottles, cans, machine parts and equipment, junk, paper, garbage and similar refuse, but shall not include the wastes of the primary processes of forest product harvesting, such as sawdust and slash.

Purchaser shall not service skidders, trucks or other equipment at locations where pollution of waters of the State of Maine is likely to occur.

I. Fire Suppression Purchaser shall comply with all forest fire suppression laws of the State of Maine.

J. General Compliance with Forestry, Land Use and Environmental Laws Without limiting the scope of the preceding paragraphs, Purchaser shall comply with all laws, ordinances and regulations of the municipality where the Lot is located (if the township is organized), the State of Maine and of the United States relating to timber cutting; removal and disposal of slash, debris and litter; construction of roads, trails and landings; protection of streams, rivers and other waters of the State of Maine; soil erosion; and all other laws, regulations and ordinances pertaining to forest product harvest operations and their effect on the environment and land use, including but not limited to, the applicable standards of the Maine Land Use Regulatory Commission and rules and regulations established thereby and forest regeneration and clear-cutting standards of the Bureau of Forestry, Department of Conservation of the State of Maine adopted under the Maine Forest Practices Act. Best Management Practices as published in Best Management Practices for Forestry: Protecting Maine's Water Quality and the Erosion and Sedimentation Handbook for Maine Timber Harvesting Operations will be implemented.

Purchaser shall promptly notify Seller on any occasion on which Purchaser may be cited for a violation of laws governing the harvest operation.

X. Default/Enforcement of Obligations:

Upon the occurrence of any event of default by Purchaser, Seller may, at any time thereafter, do any or all or any combination of the following:

- A. Halt Purchaser's harvest operations and terminate this Agreement.
- B. Enter into the Lot and take possession of all forest products remaining on the Lot.
- C. Require Purchaser to give an accounting of all forest products hauled from the Lot or yarded thereon.
- D. Require Purchaser to pay stumpage at rates and scales specified in this Agreement for all merchantable material left in the woods or wasted in stumps or tops.
- E. To grant other permits to third parties to complete the harvesting specified in this Agreement in the event of termination of this Agreement.
- F. Take corrective action as Seller deems necessary to abate erosion or damage to the Lot and to remove slash, litter and abandoned property of Purchaser, at Purchaser's cost.
- G. Enjoin any activity of Purchaser in default of this Agreement, and/or seek any other judicial or administrative remedy available to Seller at law or in equity.

Upon the termination or completion of this Agreement, Seller or Agent may examine the Lot and any access road, and notify Purchaser any failure on the part of Purchaser to comply with the conditions, terms and specifications of this Agreement. Upon such notice, Purchaser shall take all action necessary to comply.

XI. Insurance Purchaser shall obtain and maintain during the term of this Agreement insurance as follows:

A. Workers' Compensation and Employer's Liability Insurance Workers' Compensation Insurance covering all its employees and any others performing work related to this Agreement, with the coverage set forth in Maine statutes, and Employer's Liability Insurance covering all such persons; and

B. Public Liability and Property Damage Insurance Public Liability and Property Damage Insurance to protect against claims for damages for bodily injury, including personal injury to or destruction of property which may arise from operations performed under this Agreement. The minimum amounts of such insurance shall be as follows:

Bodily Injury Liability: \$1,000,000 per occurrence, \$3,000,000 aggregate, unless another amount is specified here: _____

Property Damage Liability: \$1,000,000 per occurrence, \$3,000,000 aggregate, unless another amount is specified here: _____

XII. Indemnity Purchaser shall reimburse, defend, indemnify and hold Seller and Seller's forester, agent, and employees harmless for, from and against any and all manner of losses, claims, suits, fines, penalties and expenses incurred by Seller, and/or Seller's forester, agent and employees arising out of the performance of this Agreement by Purchaser or Purchaser's agent, employees, contractors or invitees or on account of Purchaser's use of the Lot or its access.

In the event Seller shall be forced to resort to legal action to enforce any provision of this Agreement or to defend against claims or actions resulting from Purchaser's performance under this Agreement, Purchaser shall be responsible for all Seller's costs, including reasonable attorney and paralegal fees and court costs, and the cost of any professional services necessary for the determination of fault or the scope of Purchaser's non-compliance with this Agreement. Purchaser's agreement to reimburse, defend indemnity and hold Seller harmless under this paragraph shall survive the termination or expiration of this Agreement.

XIII. Assignment Purchaser shall not assign this agreement.

XIV. Subcontract Purchaser may with Seller's prior written consent, subcontract timber harvesting and sale of forest products, provided that the terms of this Agreement shall apply to any subcontractor, any such subcontract shall not relieve the Purchaser of its obligations to Seller under this Agreement and Purchaser shall be liable to Seller for any breach by the subcontractor of this Agreement.

XV. Entire Agreement. This Agreement contains the entire agreement of the parties, and neither party shall be bound by any statement or representation not contained in this Agreement. No consent or waiver, express or implied by the Seller to or of any breach of any obligations of Purchaser under this Agreement shall be construed as a consent or waiver to or of any other breach of such obligations. This Agreement may be amended only in writing signed by the Seller and Purchaser.

The parties have executed this Agreement as of the date stated on the first page of this Agreement.

Seller

Purchaser

Exhibit B

Stumpage prices

<u>Product</u>	<u>Estimated Volume</u>	<u>Stumpage price</u>
White pine sawlogs - grade	MBF	\$210/MBF
White pine sawlogs - pallet	MBF	\$70/MBF
Hemlock sawlogs	MBF	\$75/MBF
Red oak sawlogs	MBF	
Oak Veneer	MBF	mill delivered less yarding and trucking
White ash sawlogs	MBF	\$200/MBF
Red maple sawlogs	MBF	\$175/MBF
Pine pulpwood	tons	\$5/ton
Hemlock pulpwood	tons	\$8/ton
Popple pulpwood	tons	\$15/ton
Other hardwood pulpwood	tons	\$9/ton
Firewood	ords	\$25/cord
Biomass	tons	\$2/ton

Exhibit C

Required road and yard improvements

1. The Purchaser shall install and cover a culvert, measuring no less than 12" in diameter and 20' long, in place of the existing one at the spot where the main skid trail enters the woods from the yard. In addition, the Purchaser shall clear a ditch on the uphill side of the culvert to direct water toward the culvert. At the project's end the culvert must be properly able to direct water under the main skid trail.
2. The Purchaser shall maintain to existing water bars/broad-based dips in the main access road, where indicated with orange and blue flags. At the project's end these diversion devices must be properly able to divert water.

In compensation for these road and yard improvement services the Purchaser will be credited \$0000.00 against stumpage income owed the Seller.

