

Timber Sale Contract

This contract is made as of the _____ day of _____ in the year _____ between _____, herein called "Seller" and, _____ herein called "Purchaser".

In consideration of the payments to be made by Purchaser to Seller, the mutual promises herein contained, and subject to the terms and conditions herein, Seller and Purchaser agree as follows:

1. Forest Products and Sale Area

Seller grants unto Purchaser the exclusive right to cut, remove and appropriate all standing and down timber and Purchaser agrees to cut, remove and appropriate, according to the terms herein, the timber being on portions of the following described lands situated in _____ County, Washington (*herein referred to as "sale area"*).

Legal Description _____	Approximate Acres
Tax Parcel(s) _____	
Acres _____	

The timber is located on those portions of the sale area on the map marked **Exhibit "A"**, attached hereto and by this reference made a part hereof. The boundaries of the sale area are marked with _____ ribbon including roads, property lines, and riparian zones if they are part of the sale area.

2. Warranties and Title

- A. The Seller warrants that it has the right to grant Purchaser the right to enter the sale area and to remove the timber thereon. Seller does not represent or warrant a specific volume of timber on sale area.
- B. This grant to Purchaser of the right to cut, remove and appropriate the timber is subject to any and all existing rights of way and easements.
- C. It is understood and agreed by and between Seller and Purchaser that no interest in the real property in which the timber sale area as identified in **Exhibit "A"** is granted or conveyed by this contract.
- D. Title of the timber passes to the Purchaser upon the signing of the contract and payment in full.
- E. Seller shall not be liable for any indirect, punitive or consequential damages for any claim arising under this contract, whether in contract or tort.

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3. Start and Expiration Date

Purchaser can start work on sale area on _____, _____. Purchaser shall complete the work of cutting and removing the timber of the sale area on or before _____, _____. Any and all timber or logs not cut and removed by this date shall be and remain the property of Seller.

4. Payment

Seller agrees to sell and Purchaser agrees to purchase the timber for the total of \$_____. ____% is due at the signing of this contract and ____% due at the start of cutting.

5. Performance Bond

At the time of Execution of this contract Purchaser shall provide security for performance of all its obligations as set forth hereunder and for its timely payment of all its obligations as set forth hereunder, including costs, expenses and reasonable attorneys' fees, and any claims which may constitute a lien against the Land, the Timber or the logs and products manufactured therefrom. Such security shall be in the following forms and amounts which shall be determined in the sole discretion of Seller.

A performance and payments bond, in form and substance as acceptable to the Seller, in the amount of Ten Percent (10%) of the total purchase price, written by an insurance or bonding company acceptable to the Seller.

The parties recognize the difficulty of adequately ascertaining the amount of actual direct or indirect damages resulting to Seller should Purchaser default in the performance of any of its obligations described above, including Purchaser's obligations to make timely payments hereof. Accordingly, if Purchaser should so default, then, at Seller's sole discretion, Seller may, in addition to any other available remedy, either (a) apply a damage deposit, which constitute a reasonable estimate of Seller's damages, and not as a penalty, to compensate Seller for all loss or damages arising from such default (provided however, that with respect to Timber left on the Land on the Termination Date (defined below), the liquidated damages amount for such default shall be as specified in Paragraph 2 above) or, alternatively, (b) recover its actual, incidental and consequential damages, toward the payment of which Purchaser may retain all or such portion of said damage deposit, as may be required, and/or may recover under the terms of any Performance and Payment Bond provided hereunder as may be required. Such actual, incidental and consequential damages shall include, without limitation, all default and contract damages recoverable at law, including, Seller's lost profits, and all expenditures and costs, including reasonable attorneys' fees incurred by Seller in enforcing its rights and remedies hereunder. The Payment Bond provided pursuant to Seller shall be released upon payment of all monies due Seller under this Contract and after Seller representatives have inspected the Land and acknowledged that Purchaser has satisfactorily complied with its obligations hereunder.

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6. Utilization Standards

- A. Purchaser is required to remove all logs, parts of logs or slabs which meet the requirements for the lowest sawmill grade according to the standard log scaling rules and contain 20 board feet or more of net volume and have a minimum length of 12 feet, except to comply with forest practice regulations concerning downed logs.
- B. All utility logs shall be yarded concurrently with the yarding of other logs, and shall be removed from the sale at the completion of the yarding and prior to the moving from landing. *(Or the Seller can ask that they be left for firewood if the Purchaser cannot sell them)*
- C. Any forest products remaining on the sale area shall become the property of the Seller if not removed prior to termination of this contract.
- D. Purchaser shall fall all conifer and hardwood trees four inches DBH and larger or 15 feet or more in height and all snags 12 feet or more in height except as necessary to comply with the forest practices regulations.
- E. Purchaser shall not manufacture or remove split cedar products or firewood from the Seller's land.

7. Logging Standards

- A. Purchaser shall arrange a pre-harvest meeting with the Seller before any cutting or road building is started.
- B. Purchaser shall conduct its operations in a careful and workmanlike manner in accordance with good forestry and in order to avoid damage and breakage. The Purchaser shall conduct all business and logging operations in accordance with the rules and laws of the State of Washington and the United States.
- C. The Purchaser, when clear cutting, shall fall all timber into the sale area whenever possible. The tops and limbs thrown into adjacent areas must be removed concurrently with the logging operations.
- D. Only marked or designated timber within the sale area will be cut. Excessive damage to standing or unmarked or undesignated timber shall be paid for at the rate of triple the appreciated value as determined by the Seller.
- E. Pollution of water. The Purchaser shall exercise every means to prevent contamination or pollution of the waters of any stream courses, lakes, or ponds as a result of any operation on the sale area.
- F. Purchaser shall suspend operations when, because of weather conditions, they would cause excessive damage to the roads or premises upon which the timber is located.
- G. Purchaser shall limit shovel trips on shovel roads to minimize soil compaction.

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- H. Tree planting will be done by Seller.
- I. Type Ns stream marked in the field with _____ flagging and _____ flagging. Fish bearing streams marked in the field with _____ flagging and _____ flagging.

8. Slash Disposal – Fire Prevention and Control

- A. The term slash, for the purpose of this contract, shall mean all debris created on the sale area and right of way thereto by logging, milling, or other related operations, or by windstorm.
- B. In the event the slash disposal preparation work and/or reasonable measures to prevent fire from spreading from the timber sale area as specified in the contract are not complied with by the Purchaser by the date of contract expiration, the Seller shall have the right to complete such work or preparation and the Purchaser agrees to pay the Seller all costs. The Purchaser further agrees to pay all costs and/or liability incurred by the Seller made necessary by the failure of the Purchaser to either complete slash disposal preparation work, or reduction measures as directed.
- C. The Seller reserves the right to waive any of the slash disposal and fire prevention requirements contingent upon adequate disposal and fire prevention by other methods approved by the Seller. Pile slash around landings and scatter elsewhere.
- D. Purchaser shall comply with all Department of Natural Resources fire shutdown regulations.
- E. The Purchaser agrees to provide sufficient men and equipment at his expense to satisfy the requirements as provided by law that may be imposed upon the Seller and/or the Purchaser.
- F. The Purchaser shall reimburse the Seller for all costs and/or liability of whatsoever nature incurred as a result of negligence of the Purchaser on the creation, spreading, or escape of fire.
- G. Pull out and pile vine maple clumps concurrent with logging of the sale area.
- H. Slash will be scattered or piled to facilitate planting, especially in processing areas.

9. Roads

- A. Seller hereby grants to Purchaser the non-exclusive right to use all existing roads or rights-of-way on Sellers land if needed for removal of the timber under this contract. Seller also hereby grants Purchaser the rights of any easement agreements granted to the Seller to access the timber for harvesting purposes. Purchaser, at its expense, shall maintain any road so used unless the road is also used by Seller or others.
- B. Purchaser shall maintain all roads so used in the condition of the road on the date on which Purchaser's use commences. Purchaser shall keep the ditches and culverts of any road used free and clear of slides, slash and other debris during the Purchaser's use thereof. Maintenance of Purchaser constructed road is the responsibility of the Purchaser.

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- C. Seller may close any road whenever Seller reasonably believes closure is necessary to prevent abnormal deterioration thereof or as an environmental protection.
- D. All road construction, dirt spurs and logger's choice roads must be approved by Seller. Permanent roads require **100cy/sta** ballast minimum. See attached road specs, **Exhibit B**.
- E. Purchaser may, at its expense, construct on Seller land any road which may be necessary for Purchaser's removal of timber under this contract. Note proposed road locations on sale map. Any extra road needs to be permitted by Purchaser.
- F. Any and all improvements placed by Purchaser upon road systems used for logging the sale area become the property without charge of the Seller.
- G. All dirt spurs will be obliterated before expiration of this contract.
- H. Any rock needed for existing roads or Purchaser constructed roads must be acquired at Purchaser's expense.
- I. Permanent roads must be left in a condition that will allow 2wd pickup travel year around and meet RMAP standards.

10. Indemnity

- A. Purchaser agrees to indemnify Seller against and save and keep Seller harmless from any expense, cost, loss, claim or liability of every character whatsoever arising from or in any way growing out of injury, including injury resulting in death to any person or persons, including Purchaser's employees; or damage, destruction or loss of property of Seller or property of any other party resulting in whole or in part from of arising out of the performance of work under this contract by Purchaser, its employees, agents or contractors.
- B. Purchaser agrees to indemnify and hold Seller harmless from all liability in any manner arising out of any violation by Purchaser, or its employees, agents or contractors of the state Forest Practices Act or other laws and regulations relating to operations under this contract.

11. Default

- A. In the event either party fail to keep or perform any of its covenants or agreements to be kept or performed by the first party as herein set forth and such default shall continue for a period of ten days or if such failure to perform is not capable of being cured within ten days and a satisfactory remedy has not been initiated within ten days after receipt by the first party of written notice from the other party; then, in any event, the party shall have the right to suspend performance hereunder of cancel this contract. In the event of any such default, the other party shall have all other remedies available at law or in equity. Upon receipt of any such notice of default declared by Seller, any right of the Purchaser to enter the sale area or to cut or remove therefrom any timber, as well as all other rights and privileges hereby granted to the Purchaser shall forthwith terminate.

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12. Venue

In the event of suit based upon this contract, the prevailing party shall be entitled to recover costs, including reasonable attorney's fees. Venue shall be at the option of Seller in _____ County, Washington

13. Taxes

Purchaser shall pay all forest excise taxes imposed on the harvesting of the timber. Seller will pay all other taxes relating to the property.

14. Insurance

Purchaser shall be required to provide Seller with a certificate of insurance evidencing insurance coverage in the amounts stated below:

	Comprehensive General Liability	Automobile Liability
Bodily Injury	\$1,000,000/occurrence \$2,000,000 aggregate	\$500,000/occurrence \$1,000,000 aggregate
Property Damage	\$500,000/occurrence	\$500,000/occurrence
Logger's Broadform Property Damage	\$2,000,000	\$1,000,000 com. single limit each accident

Prior to the commencement of any work hereunder by Purchaser or contractor for the Purchaser a certificate of insurance shall be filed with the Seller listed as the insured party. It is understood that the aforesaid insurance is not intended to, and shall not, relieve Purchaser from its liability hereunder.

15. Notice

Any notice, request, demand, statement, approval and other communications under this contract shall be in writing, and shall be delivered to the Seller.

16. Assignment

This contract shall be binding upon the respective successors and assigns of the parties hereto but it is not assignable without prior written consent of both parties.

17. Arbitration

In the event of breach of this contract by either party, the prevailing party in any resulting arbitration shall be entitled to recover reasonable attorney fees, including attorney fees on any appeal, in addition to any other damages or recovery of which that party may be entitled.

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18. Force Majeure

Neither party hereto shall be liable for any delay or default in performance hereunder due to any cause beyond its control, it agents or contractors, including but not limited to acts of God or the public enemy, acts of the federal or state government, floods, wars, fires, storms, labor disputes, weather conditions or services necessary to the performance of any provision hereof whereby performance hereunder is delayed or prevented. Upon the occurrence of any such event, the party affected thereby may suspend operations hereunder after giving written notice to the other party within 15 days of such event and the term of this contract will be extended for the amount of time so delayed.

19. Permits

Purchaser will be required to obtain all necessary permits. Seller has secured a forest practices permit which is attached to this contract. Purchaser shall transfer FPA timber Seller and operator to Purchaser name. Purchaser shall have appropriate warning signs on public roads for truck crossing.

20. Access

Reasonable access to and from sale area across Sellers land will be granted. See attached Haul Route Map. Sellers permit with covers normal road maintenance. Any extra ordinary road maintenance cost will be bore by Purchaser.

21. Termination of Contract

Purchaser shall notify Seller in person or via letter within 10 days of contract completion.

In witness whereof, the parties hereto have caused this instrument to be executed the day and year first above written.

Seller(s): _____ Purchaser: _____

_____ By: _____

_____ Its: _____