

Utah Forest Facts

UtahStateUniversity
COOPERATIVE EXTENSION

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Preparing a Timber Sale Contract

Barbara Daniels, Darren McAvoy, Michael Kuhns

A sample timber sale contract is presented in this fact sheet. This fact sheet does not take the place of legal advice; a professional forester and an attorney should be consulted before a timber sale contract is negotiated and signed.

A Contract is Good Business

You wouldn't sell a house without a contract – a timber sale needs a contract, too. Timber is a valuable commodity. If you are a private landowner planning to sell timber, make sure you protect your interests, and those of the purchaser, by using a written contract. Often, timber is sold by a handshake or a “gentleman's agreement” and sometimes misunderstandings or problems with sales have ended up in the courts. A comprehensive contract will help make the sale and harvest run more smoothly, with less surprises for seller or purchaser.

Before you sell your timber, make sure you know what you have and what it is worth. Consultation with a professional forester will help you determine the value of your trees, and help you plan the harvest to attain the goals you have for your land. A forester can also be hired as seller's agent and administer the timber sale contract from start to finish – from valuation to logging completion and site cleanup. Working with a professional forester is recommended, but if you choose to administer the sale yourself, refer to Utah Forest Facts NR/FF/006, “Tips for Planning a Successful Timber Sale,” for information on how to prepare and carry out your sale. This fact sheet can be found at http://extension.usu.edu/forestry/Management/Timber_PlanningSale.htm. How your timber sale is carried out not only determines your

financial success, but it also can mean the difference between a healthy forest and one that is severely damaged and will take decades to recover.

A timber sale contract does not have to be overly long with complicated legal language, but it must clearly lay out expectations for both purchaser and seller. If a timber purchaser has approached you to buy your timber, they may present a purchaser's contract. It may be all right to use a purchaser-prepared contract, but review it with an attorney first to make sure *your* interests are protected. Chances are that clauses will need to be added and other changes made so the contract addresses both of your interests.

A Sample Contract

A sample timber sale contract is presented in the following pages. This document is set up for you to “cut and paste” to create your own contract. Be sure to include essential clauses which should appear as a minimum in any timber sale contract. In the sample contract, these essential clauses are: 1, 2, 5, 6, 7, 8, 9, 14, 15, 16, 17, 18, 28, 35, 37, 38, 39, 42, 43, and 45. Include other clauses if they are important to your sale, but omit provisions within a clause if they do not pertain to your sale. Also, the explanatory paragraphs (shaded) should be removed – they are there to provide more information about certain clauses. The remaining paragraphs will need to be renumbered if some clauses are excluded.

Be aware that too many restrictions may reduce the price you will receive for your timber or the willingness of purchasers to bid on it. Consult an attorney before signing any timber sale contract.

SAMPLE TIMBER SALE CONTRACT

This Contract is entered into in duplicate on this _____ day of _____, 20____, between _____ (Seller), and _____ (Purchaser).

FOR AND IN CONSIDERATION of the following terms and conditions the Seller and the Purchaser agree as follows:

1. **THE REAL PROPERTY.** The Seller hereby authorizes the Purchaser to enter upon the following described lands (the Property) in _____ County, State of Utah, for purposes of cutting and removing timber marked or otherwise designated by the Seller or Seller's Agent. Legal Description(s) of Property: _____

The Property is further described on the map(s) or diagram(s) attached to and made a part of this Contract. The area of the Property is approximately _____ acres in total.

2. **TITLE TO TIMBER AND BOUNDARY LINES.** The Seller warrants clear and unencumbered title to the timber and to defend it against any and all claims and to have the boundaries marked with paint or other suitable means before any timber is harvested.

3. **TIMBER DESIGNATION; INSPECTION.** The Seller or Seller's Agent shall designate the timber to be sold and may make inspections of the sale area at any time for the purposes of ascertaining whether the timber has been cut and the Contract has been complied with.

4. **ACCESS TO THE PROPERTY.**

- a. **Ingress/Egress.** The Seller shall secure entry and right-of-way to the Purchaser on and across the area covered by this Contract, including access via land owned by a third-party if necessary.
- b. **Additional Permits.** The Seller and Purchaser shall work together on acquiring other necessary permits (such as wetland or stream crossing permits).
- c. **Other Approvals.** Logging roads that intersect town, county or state roads or highways must have the intersections approved by the proper authorities prior to construction and cleared of all unsightly debris at the time of construction. The Purchaser shall apply for and obtain all approvals. The Purchaser also shall fully comply with all terms and conditions of intersection approvals.

5. **PERFORMANCE.**

- a. **Commencement.** Cutting and removal of timber may commence and continue only after the signing of this Contract by both parties.
- b. **Seller's Agent.** _____ is appointed the Seller's Agent. The Seller's Agent is authorized to act for the Seller only as expressly stated in various clauses of this Contract.
- c. **Contract Oversight.** The Seller or Seller's Agent may require an onsite meeting before commencement of harvesting. The Purchaser shall notify the Seller or the Seller's Agent 36-48 hours prior to commencing harvest of the timber designated herein and within 36-48 hours upon completion of the cutting. In the event that the harvest is temporarily discontinued for more than one week, the Purchaser agrees to notify the Seller or the Seller's Agent both upon discontinuance and resumption of harvest. The notifications under this subparagraph shall be made in writing or by telephone to _____ (Seller) or _____ (Seller's Agent). Cutting and removal of timber purchased under this Contract shall be conducted in a good and workman-like manner with reasonable diligence to assure completion of all performance within the Contract period.

6. **CONTRACT PERIOD.**

- a. All work under this Contract shall be completed between the signing of the Contract by both parties and _____ (contract ending date), for time is of the essence.
- b. The Seller or Seller's Agent may temporarily suspend operations under this Contract due to excessive property damage, wet conditions or at other reasonable times in its sole discretion upon notice to the Purchaser or other persons operating on the sale area under this Contract with subsequent equitable adjustment of this Contract as mutually agreed upon by the parties.
- c. The contract completion date stated above in subparagraph a. may be extended upon the written agreement of the Seller and Purchaser.

Explanation. A reasonable contract period allows the Buyer sufficient time to set up operations on site, harvest and remove the timber, and perform site cleanup and rehabilitation. If no ending date is specified, the contract can continue indefinitely. Extensions may be necessary due to wet weather or poor logging conditions (see clause 21, Contract Extensions). Six months, one year and two years are common contract lengths depending on the amount of timber and logging conditions.

7. **TERMINATION.** If the Seller determines that the Purchaser has breached any conditions of this Contract, the Seller shall notify the Purchaser by writing, specifying the particular breach. The Purchaser shall have 30 days from the date of such notice, or such longer period as approved by the Seller to correct such breach. If the Purchaser fails to correct such breach within such period the Seller may terminate this Contract without further notice to the Purchaser; provided, however, such termination shall not release the Purchaser from liability for damage incurred prior to such termination.

8. **AUTHORITY TO STOP WORK.** If the operations of the Purchaser are found not up to standards as specified by this Contract and corrective action is not taken upon request, the Seller or Seller's Agent shall have authority to shut down the operation until corrective action is taken.

9. **BOND.** The Purchaser shall deposit cash, a surety bond, a certified check, or other form acceptable to the Seller in the amount of \$ _____ as a bond to assure proper performance. The performance bond is to be held by the Seller until the Purchaser has completed or complied with all contract conditions. Upon breach of any condition of this Contract, the performance bond shall be applied to actual damages incurred by the Seller. The performance bond (or any balance after damages are deducted) shall be returned to the Purchaser within sixty days of the completion of the harvest consistent with the Contract, if the Purchaser notifies the Seller in writing that the harvest is finished.

Explanation. A surety bond is an agreement under which the surety (the bonding company) guarantees to another party (in this case the Seller) that a third party (the Purchaser) will perform the contract according to the contract specifications. A typical timber sale performance bond amount is 10% of the sale value. For example, a sale valued at \$21,000 would require a bond of \$2,100. A seller may also want to consider site rehabilitation costs in calculating the bond amount.

10. **REMEDIES FOR UNAUTHORIZED ACTS.** If timber or other forest products not specifically described in this Contract or designated by the Seller or Seller's Agent for cutting are cut, unreasonably damaged or removed by the Purchaser, the Seller may pursue any and all remedies for the unlawful use of the Seller's property and the cutting, unreasonable damage or removal of property without consent, including the seeking of criminal or civil charges for theft, timber theft or criminal damage to property, in addition to any damages for breach.

11. **DAMAGES.** The damages to be paid to the Seller upon the Purchaser's failure to perform this Contract include, but are not limited to:
- a. The difference between the Purchaser's bid value of timber not cut and removed under this Contract and the value returned to the Purchaser. The Seller shall mitigate the damages for breach by offering the timber for resale within 12 months if the Seller determines the timber is salable based upon its volume or quality.
 - b. Triple average stumpage rate for timber cut, removed or unreasonably damaged without authorization under or in violation of this Contract. The Seller's decision to assess triple damages as provided here and to allow the Purchaser to continue performance under this Contract shall not be construed as a waiver of other contract performance requirements. Stumpage rate here and elsewhere in this Contract is defined as the value of the trees on the stump.
 - c. All costs of sale area cleanup or completion of performance not completed by the Purchaser.
 - d. All costs of resale of timber not cut and removed as required under this Contract. The Purchaser acknowledges that if the timber identified in this Contract for cutting is to be resold due to a breach of this Contract, the Seller is not obligated to give oral or written notice to the Purchaser of the resale.
 - f. Additional damage provisions: _____

Explanation. Additional damage provisions can be quite strict, if the Seller wishes. For example the Seller may specify a maximum number of trees per acre that may show visible skidding damage, or that skidding ruts may not exceed a specified depth.

12. **DOWN PAYMENT.** The Purchaser shall give the Seller a down payment in the form of cash, a certified check, or other form acceptable to the Seller in the amount of \$ _____ to commit to completion of the timber sale in a timely manner as specified in the contract.

13. **PAYMENT - REMOVAL OF FOREST PRODUCTS.** No forest products may be removed from the Property until the Purchaser pays for the products or guarantees payment for the products to the satisfaction of the Seller.

14. **TITLE TO PRODUCTS.** Title to stumpage and any forest products cut under this Contract shall remain with the Seller until payment is received. Title to stumpage and cut products that are not removed before the end of the contract period, even though paid for, shall revert to the Seller and the Seller shall be under no obligation to return payments to the Purchaser.

15. **PRODUCTS TO BE REMOVED.** During the period of this contract, the Purchaser is authorized to, and shall cut, remove and pay for the timber or forest products marked or designated as follows: _____

Example. All trees to be cut as sawtimber are painted with a blue stripe at breast height, and a butt spot below stump level (12").

SALE TYPE [select one of the following three choices and omit the other two from the contract]

Explanation. The type of sale the Seller chooses may be determined by the species and products on the property, or the facilities available to process the timber. For example, if the property contains even-aged Douglas-fir sawtimber, either a lump sum or flat rate scaled products sale would be appropriate, since there will be little variation in piece size or quality. On the other hand, a property with a mix of aspen, fir and lodgepole of various ages, sizes and quality (and therefore final products) may call for a graded product sale. Consultation with a professional forester is the best way to determine the appropriate sale type.

16. **LUMP SUM SALE:** The Purchaser shall pay Seller an amount of \$ _____, to be paid in full prior to the commencement of timber cutting, based on the volume estimates and unit values in paragraph 18 Timber Products Table. The Seller is not obligated to return the payment or any portion of it in the event the Purchaser fails to remove all timber or forest products authorized for removal.

OR

16. **SCALED PRODUCTS SALE: FLAT RATE METHOD.** The Purchaser shall pay Seller an amount as established by the Price per Unit in paragraph 18 based on sawtimber, ton or piece product volume as measured by product dimensions. The price paid per board feet, ton or piece is a flat rate regardless of the quality, final destination or use of the cut product. The volume shall be measured by _____ (name), an agent of [~~strike the choices that do not apply~~] the Seller / the Purchaser / the primary processing facility (the Mill or its agent) to whom the Purchaser delivers the product and to whom the cut product is sold. Products measured by weight shall be weighed and delivered to the primary processing facility in a timely manner.

OR

16. **SCALED PRODUCTS SALE: GRADED PRODUCT METHOD.** The Purchaser shall pay Seller an amount as established by the Price per Unit in paragraph 18 based on the volume of *graded* products including sawtimber by grade, veneer by grade and piece products (such as posts and utility poles) by grade. In addition to product dimension, the price paid depends upon the quality or intended use of the cut product or type of processing facility the cut product is destined. The volume and grade shall be determined by _____ (name), an agent of [~~strike the choices that do not apply~~] the Seller / the Purchaser / the primary processing facility (the Mill or its agent) to whom the Purchaser delivers the product and to whom the cut product is sold. Products measured by weight shall be weighed and delivered to the primary processing facility in a timely manner.

17. **HAULING PROCEDURE AND PAYMENT SCHEDULE FOR SCALED SALES.** The Purchaser shall keep a record of each load removed and its destination. Addresses of the Mills where wood products are to be delivered shall be given to the Seller before cutting begins. The Purchaser shall provide Mills with the Seller's name and address for each load and request Mills to provide copies of the mill scale slips to the Seller within _____ days of receipt of the wood products. Failure to keep a record of any load and its destination shall be a violation of this contract and considered theft. Payments shall be made according to the following schedule: [*Select one of the following three choices and omit the other two from the contract.*]

The Purchaser shall pay the Seller for the products delivered to the Mill, as measured on the mill scale slip, within _____ days of delivery. The Purchaser shall include copies of the mill scale slips with payments.

OR

Payment to the Seller shall be made in advance of hauling, with the value of the measured volume on the mill scale slips deducted from the Purchaser's stumpage payment balance. Advance stumpage payments shall not be used for any purpose other than the stumpage account and any excess payments will be returned to the Purchaser within 60 days after the last load is hauled from the Seller's Property.

OR

The Mill shall make payments for delivered products directly to the Seller within _____ days of delivery by the Purchaser. Copies of the mill scale slips shall be included with payments to the Seller.

18. **TIMBER PRODUCTS TABLE** [*NOTE: If the Lump Sum Sale option is selected for paragraph 16, then the unit prices in the Timber Products Table below shall be used for sale add-ons or calculation of damages. If a Scaled Products Sale (Flat Rate or Graded Product) option is selected, then the Purchaser shall pay the Seller the unit prices in the Timber Products Table for the volume of product (by species) that is harvested.*]

Species to be Harvested	Product (Sawtimber, Posts, Poles, etc.)	Estimated Volume	Price per Unit (MBF ¹ , Ton, etc.)	Total Value of Estimated Volume

¹"MBF" means "thousand board feet"

Total Estimated Value: _____

<i>Example Table:</i>				
<i>Species</i>	<i>Product</i>	<i>Estimated Volume</i>	<i>Price per unit</i>	<i>Total Value</i>
<i>Douglas-fir</i>	<i>Sawtimber</i>	<i>60 mbf</i>	<i>\$120/mbf</i>	<i>\$6000</i>
<i>Lodgepole pine</i>	<i>Sawtimber</i>	<i>10 mbf</i>	<i>\$100/mbf</i>	<i>\$1000</i>
<i>Aspen</i>		<i>20 tons</i>	<i>\$4/ton</i>	<i>\$80</i>
<i>Aspen</i>	<i>Sawtimber</i>	<i>5 mbf</i>	<i>\$12/mbf</i>	<i>\$60</i>
Total Estimated Value:				\$7140

19. **SAWTIMBER VOLUME DETERMINATION.** Sawtimber volumes shall be determined by the Scribner Decimal C rule.

Explanation. The Scriber Decimal C rule is a set of tables used to determine the volume of sawtimber. The height and DBH (diameter at breast height) of the trees (or a subset of trees) are measured, looked up on the table, and the volume of a tree based on those parameters is listed in the table. Other log rules such as the Doyle and International 1/4-inch exist and are used in other parts of the country, but in Utah and much of the West the Scriber Decimal C is the standard rule.

20. **VOLUME ESTIMATES.** The volumes of timber indicated in this Contract or other appraisal or cruise documents of the Seller are estimates. The Seller gives no warranty or guarantee respecting the quantity, quality or volume of marked or otherwise designated timber or forest products on the sale area.

21. **CONTRACT EXTENSIONS.** If extensions of this Contract are deemed reasonable by the Seller, the stumpage price agreed upon herein shall be adjusted as follows:

- a. First six-month extension: 0% increase
- b. Second six-month extension: 5% increase
- c. Additional six-month extensions: 10% increase
- d. Other applicable charges or fees (If none, state None): _____

22. **SUPERVISION.** The Purchaser shall designate a representative who will remain on the sale area during construction and logging operations. The Seller or Seller's Agent may deliver any notice to correct actions or suspend operations to the representative until notification can be made to the Purchaser.

23. **APPROVAL OF EQUIPMENT.** The Seller or Seller's Agent must approve all skidding equipment prior to use.

24. **UTILIZATION AND STUMP HEIGHT.**

- a. Tree stumps shall be cut as close to the ground as practical, otherwise maximum stump height shall not exceed stump diameter; and for stumps ten or more inches in diameter, stumps shall not exceed ten inches in height.
- b. Trees shall be utilized to a _____ inch minimum top diameter inside bark and a _____ foot minimum piece length.
- c. No trees or products over _____ feet in length may be skidded within the cutting area without written permission of the Seller.
- d. Other (If none, state None.) _____

25. **WASTE.** The Purchaser shall complete all operations and performance as described in this Contract without waste or nuisance on the sale area or any other property of the Seller or adjoining land used in conjunction with the harvest and use reasonable care not to damage trees not designated or marked for cutting. Young trees bent or held down by felled trees shall be promptly released.

Explanation. Clauses 23-25 give the Seller the opportunity to state utilization requirements and restrict the type and/or size of logging and other equipment used on the property. For example, the Seller may specify that no equipment larger than a certain-sized dozer or its equivalent shall be used for skidding logs or tree lengths. Make sure to include here any requirements that will maximize wood utilization, and minimize waste and damage to the land.

26. **ZONE COMPLETION.** The Purchaser shall complete all operations on each portion of the sale area or each zone as designated on the sale area map or other attachments or in the cutting requirements before beginning cutting in the next portion or zone, unless agreed to otherwise by the Seller.

27. **TIMELY REMOVAL.** The Purchaser shall skid, haul, scale or weigh, and deliver all products to the primary processing facility within two weeks of cutting unless otherwise approved by the Seller or Seller's Agent. All cut timber must be hauled prior to any planned interruption of harvesting activity which will last more than two weeks.

28. **ROADS, LANDINGS, MILL SITES, CAMPSITES, EROSION CONTROL, FOREST WATER QUALITY GUIDELINES (FWQGs).**

- a. When not otherwise designated by the Seller, the location of roads, stream crossings, skid trails, landings, mill sites and campsites on Seller's Property are subject to advance approval and under the conditions established by the Seller. All restoration, cleanup or repair of roads, bridges, fences, gates, landings, mill sites and campsites, or the cost of the cleanup, if not completed by the Purchaser to the reasonable satisfaction of the Seller, is the responsibility of the Purchaser.
- b. Logging debris accumulated at landing areas shall be piled at the landings, or scattered within the sale area as determined by the Seller or Seller's Agent and specified in paragraph 32.
- c. Berms constructed on the Seller's Property shall be leveled to restore the area to the Seller's satisfaction unless they are constructed at the direction of the Seller under subparagraph e.
- d. Roads and landings shall be graded or closed upon the request of and to the Seller's satisfaction upon completion or termination of this Contract.
- e. Other restoration requirements (e.g., seeding, gravel, rutting, culvert removal, etc.): _____

f. The Purchaser shall comply with the Forest Water Quality Guidelines as described in “Utah’s Forest Water Quality Guidelines,” published by the Utah Department of Natural Resources. Identify FWQGs of particular concern: _____

Explanation. In clause 28e, the Seller may specify restoration requirements to be completed once logging has ended. This might include seeding of roads, grading of ruts to a maximum height, removal of temporary culverts to restore drainage patterns, or any other restoration that will promote the rehabilitation of the site. In clause 28f, the Seller should list any Forest Water Quality Guidelines that are of particular concern. For example, if there is a fish-bearing stream on the property, this might include strict adherence to streamside management zones and careful attention to handling of chemicals on the site.

29. SURVEY MONUMENTS. The Purchaser shall pay for the cost of repair or replacement of property or land survey monuments or accessories which are removed, destroyed or made inaccessible.

30. FOREST FIRE PREVENTION AND SUPPRESSION. The Purchaser shall take reasonable precautions to prevent the starting and spreading of fires. Those precautions include, but are not limited to:

- a. The Purchaser shall comply at all times with state and federal forest fire regulations.
- b. All chainsaws and all non-turbocharged off-road logging equipment used in the operation shall be equipped with spark arrestors that have been approved by the U.S. Forest Service. Such arrestors may not be altered in any manner or removed and shall be properly maintained.
- c. If a fire occurs, the Purchaser shall promptly report the fire and cooperate in the control and suppression of the fire.
- d. The Purchaser shall comply with requests regarding forest fire prevention and suppression made by the Seller and take all reasonable precautions to prevent, suppress and report forest fires. Those requests may include ceasing or modifying operations.

31. PAYMENT FOR FIRE SUPPRESSION. The cost of suppressing fires caused by the Purchaser’s operations shall be borne by the Purchaser. Such fires shall include, but not be limited to, those resulting from smoking, campfires, and equipment or vehicle operation.

32. SLASH REMOVAL. Slash falling in any lake or stream, in a right-of-way or on land of an adjoining landowner shall be immediately removed from the waters, right-of-way or adjoining land. Tops from felled trees may not be left hanging in standing trees. All trees shall be completely felled and not left leaning or hanging in other trees. All slash shall be disposed of as follows [*pick the applicable choice(s) and strike the other(s) from the contract*]:

- a. Slash shall be lopped and scattered over the sale unit. Height of scattered slash shall not exceed 24 inches.
- b. Slash shall be piled at landings.
- c. Slash piles shall be burned.

33. CLEANUP AND USE OF SALE AREA.

- a. The Purchaser shall remove equipment, tools, solid waste and trash remaining on the sale area or Seller’s Property or adjoining land used in conjunction with the harvest upon completion of performance under this Contract, termination of this Contract due to breach by the Purchaser or when requested by the Seller or Seller’s Agent.
- b. No residence, dwelling, permanent structure, or improvement may be established or constructed on the sale area or other property of the Seller.
- c. The Purchaser and Purchaser’s employees are prohibited from hunting on the sale area or other property of the Seller without written permission by the Seller.

34. HAZARDOUS MATERIALS. The Purchaser shall properly use and dispose of all petroleum and hazardous products, including but not limited to oil, oil filters, grease cartridges, hydraulic fuel and diesel fuel. Any on-site spillage must be properly reported, removed and cleaned up by the Purchaser in accordance with the Forest Water Quality Guidelines for the State of Utah.

35. NOTICE OF INTENT TO CUT AND COMPLIANCE WITH LAWS. The Purchaser shall file a Notification of Intent to Conduct Forest Practices to the Utah Division of Forestry, Fire and State Lands 30 days in advance of commencing operations, in accordance with Utah Code 65A-8a-104 (Utah Forest Practices Act). Purchaser shall comply with all other notice requirements, laws and ordinances with respect to work under this Contract.

Explanation. Utah Code 65A-8a-104, Notification of intent to conduct forest practices, is as follows:

(1) No later than 30 days prior to an operator commencing forest practices, the operator shall notify the division of the operator’s intent to conduct forest practices.

(2) The notification shall include:

- (a) the name and address of the operator;
- (b) the name and address of the landowner;
- (c) a legal description of the area in which the forest practices are to be conducted; and

- (d) a description of the proposed forest practices to be conducted, including the number of acres with timber to be harvested.
- (3) Upon the receipt of notification, the division shall, within ten days, mail to the landowner and the operator:
- (a) an acknowledgment of notification;
 - (b) information on Forest Water Quality Guidelines; and
 - (c) any other information the division believes would assist the landowner and operator in conducting forest practices.

36. REGISTERED OPERATORS. All operators working on the property shall be registered with the Utah Division of Forestry, Fire and State Lands as of the commencement of operations, in accordance with Utah Code 65A-8a-103 (Utah Forest Practices Act).

Explanation. Utah Code 65A-8a-103, Registration of operators, is as follows:

- (1) An operator intending to conduct forest practices in Utah, except a landowner conducting forest practices on his or her own land, shall register with the division.
- (2) The operator shall submit the following information to the division:
 - (a) the name of the company;
 - (b) the name of the state where the company is incorporated; and
 - (c) the name, telephone number, and address of a company officer and an on-the-ground supervisor.
- (3) In consultation with industry representatives, the division may establish, by rule, minimum requirements for registration of operators in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.
- (4) The division shall make available to landowners a list of registered operators.

37. LIABILITY. The Purchaser shall protect, indemnify and save harmless the Seller and the Seller's employees and agents from and against all causes of action, claims, demands, suits, liability or expense by reason of loss or damage to any property or bodily injury to any person, including death, as a direct or indirect result of timbering operations under this Contract or in connection with any action or omission of the Purchaser.

38. INSURANCE. The Purchaser shall procure and maintain for the entire term of the Contract, the following types of insurance with minimum limits specified:

- a. Comprehensive Automobile Liability insurance covering all owned, non-owned or hired vehicles used in connection with the work of this Contract with limits not less than \$1,000,000 each occurrence combined, single limit for bodily injury and property damage liability;
- b. General Commercial Liability policy with a Logging and Lumbering Endorsement (Logger's Broad Form "B"), with limits not less than \$1,000,000 each occurrence combined, single limit for bodily injury and property damage liability;
- c. Worker's Compensation insurance in an amount not less than \$500,000 for any and all employees engaged in the timber harvesting activities on the Property; and
- d. The Purchaser shall provide the Seller a Certificate of Insurance stating compliance with the above requirements before beginning any work under this Contract. The Certificate shall include a statement that coverage shall not be altered or canceled without 30 days written advance notice to the Seller. The certificates of insurance must name the Seller as an additional insured and loss payee so the insurance carriers can notify the Seller should the insurances expire.

39. STATUS AS INDEPENDENT CONTRACTOR. The Purchaser is an independent contractor for all purposes including Worker's Compensation and is not an employee or agent of the Seller. Except as specified elsewhere in this Contract, the Purchaser shall have the sole control of the method, hours worked, time and manner of any timber cutting to be performed hereunder. The Seller takes no responsibility for supervision or direction of the performance of any of the harvesting to be performed by the undersigned Purchaser or its employees. The Seller further shall exercise no control over the selection and dismissal of the Purchaser's employees.

40. ASSIGNMENT OF CONTRACT. This Contract or work under it may not be assigned or subcontracted in part or in whole without prior written approval from the Seller and may be changed or amended only in writing.

41. ATTORNEY'S FEES. In any proceedings to enforce the terms of this Contract, the prevailing party shall be entitled to recover costs and attorney's fees.

42. ENTIRE AGREEMENT. This Contract, together with specifications in the request for bids as well as reference to parts and attachments, shall constitute the entire agreement and any previous communications or agreements pertaining to this Contract are hereby superseded. Any amendments to this Contract shall be in writing, signed and dated by both parties.

43. APPLICABLE LAW. This Contract shall be governed by the laws of the State of Utah. The Purchaser shall at all times comply with all federal, state, and local laws, ordinances and regulations in effect during the contract period.

44. UNCONTROLLABLE CIRCUMSTANCES. Neither party shall be liable for defaults or delays due to acts of God or the public enemy, acts or demands of any government or governmental agency, strikes, fires, flood, accidents or other unforeseeable causes beyond its control and not due to its fault or negligence. Each party shall notify the other in writing of the cause of such delay within five days after the beginning thereof. If such uncontrollable circumstances continue for 30 days and prevent either party from complying with the terms of this agreement, either party shall have the option of terminating upon ten days notice to the other.

45. **BINDING EFFECT OF CONTRACT.** This contract shall be binding on the heirs, administrators, executors, successors or assigns of both parties.

46. **NOTICE INFORMATION:**

Seller:
Name _____
Address: _____

Telephone: _____
Cellular Phone: _____

Purchaser:
Name _____
Address: _____

Telephone: _____
Cellular Phone: _____

NOW, THEREFORE, the SELLER and the PURCHASER acknowledge that they have each read and understand the entire contract comprised of _____ pages.

SELLER

Date _____ by _____

PURCHASER

Date _____ by _____

WITNESS

Date _____ by _____

page ____ of ____

This fact sheet may be accessed on the Web via http://extension.usu.edu/forestry/Management/MA_Timber.htm. Follow the link found there to a pdf version which you may copy and edit as needed for your contract.

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