



St. Louis County Timber Harvesting Contract

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. All timber species and products designated for cutting within the harvest areas shall be removed according to the specifications.

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

1. DEFINITIONS

"Purchaser" shall mean the corporation, company, partnership, firm, or individual named and designated as a party to this Contract for the performance of the work.

"Seller" shall mean St. Louis County and its Sellers.

"Responsible Operators List" shall mean a list of field operators that meet the Land and Minerals Department requirements and are qualified to bid on St. Louis County Contracts.

"Amendment" shall mean the process to change or modify the Contract in anyway.

"Addendum" shall mean the process of something that is added or is to be added to the Contract.

"Timber" shall mean trees that will produce forest products of value whether standing or down, and including but not limited to logs, posts, poles, bolts, pulpwood, cordwood, lumber, and decorative material.

"Cord" shall be defined as 128 cubic feet of wood, air, and bark with careful piling.

"Scribner Decimal C Log Scale" shall mean the scale measurement for saw timber.

"Cutting Blocks" shall mean a timber auction sale that is partitioned and sold as a single sale with predetermined cutting blocks. The value of each separate block must be paid in full before any cutting may begin in that block.

"Sold On Appraised Volume Estimate (SOAV)" shall mean or referred to as a lump sum sale in which the Seller may sell timber based on appraisal without scaling.

"Informal Sales" shall mean a small amount of timber not exceeding \$3,000 in appraised value, and not sold for less than full appraised value at a private sale.

"The work" shall mean the equipment, supplies, materials, labor and services to be furnished under the contract and the carrying out of all obligations imposed by the contract documents.

The words *"approved"*, *"reasonable"*, *"suitable"*, *"acceptable"*, *"proper"*, *"satisfactory"*, or words of like effect and significance, unless otherwise particularly specified herein, shall mean approved, reasonable, suitable, acceptable, proper, or satisfactory in the judgment of the Seller.

Whenever in this contract document the expression *"it is understood and agreed"* or an expression of like significance is used, such expression shall mean the mutual understanding and agreement of the parties executing the Contract Agreement.

2. GOVERNING LAWS

This contract shall be governed by and interpreted according to the laws of the State of Minnesota. The Purchaser shall at all times comply with all applicable laws and regulations in effect during the contract period.



3. SCOPE AND INTENT OF CONTRACT DOCUMENTS

Should anything necessary for a clear understanding of the work be omitted from the Contract Documents, or should the requirements appear to be in conflict, the Purchaser shall secure written instructions from the Seller before proceeding with the work affected thereby.

4. QUALIFICATIONS AND PERFORMANCE

Responsible Operator. The Purchaser and any sub-contractors performing work pursuant to this contractor, must be on the Responsible Operators List.

Commencement. Cutting and removal of timber in conformance with this Contract may commence and continue only after the signing of this Contract by both parties, payment is made (entire sale or blocks), the required certificate of insurance is submitted to Seller, and the Pre-Work Checklist is signed by both parties.

Contract Oversight. Operations shall be conducted in conformance with this Contract and in a good and workmanlike manner with reasonable diligence to assure completion of all requirements within the period specified herein. The Purchaser shall notify the Seller prior to commencing harvest of the timber designated herein and upon completion of the cutting. In the event that the harvest is suspended, the Purchaser shall notify the Seller both upon suspension and resumption of harvest. Notification under this paragraph may be made by telephone or other means of communication.

5. CONTRACT EXTENSIONS

- a. Contract amendments or extensions will not be automatic and may not be relied upon by the Purchaser for the purpose of completing performance under this Contract.
- b. If an extension of this Contract is granted by the Seller, the Extension Payment shall be paid prior to execution of the extension. The Extension Payment will be 4% of the average bid value per acre of the sale area that has not been completely harvested at the time of extension.

4% X (Total sale value/Total sale acres) X Acres not completely harvested.

The Extension Payment is in addition to any other payments received or required with the contract, is non-refundable and cannot be applied to any future contract payments.

- c. Extension fee will be \$100.00.
- d. Purchaser must make a request for a contract extension in writing to the Seller no less than 10 business days prior to the expiration date. Extensions will not be automatic but considered on the merits of the request.
- e. Only one extension will be granted and it will be for a one-year period.
- f. Harvesting Regulations or other terms may be modified as part of any extension.



6. TERMINATION

- a. If Purchaser terminates with or without cause, upon written notice, the Purchaser shall cease all operations on and immediately leave, and not return to, the Seller's property unless otherwise approved by the Seller.
- b. If Seller terminates without cause, any payment for which timber is not harvested or removed will be returned to the Purchaser.

7. PAYMENTS

Acceptable forms of payment to the Seller are limited to bank draft, certified or cashiers check, company or personal check, bank or postal money order, or authorized letter of credit to the Seller.

- a. The down payment will be held until satisfactory completion of the Contract or may be applied in whole or in part to the final cutting block (at the discretion of the Seller).
- b. The entire block amount must be paid prior to harvesting the block. [See paragraph, (c)]
- c. Purchaser may enter unpaid blocks for pre-work road construction purposes upon receiving approval from the Seller. Wood cut and hauled as a result of road construction must be paid for prior to removal, unless provision for consumer scale is made. Block volumes shall be adjusted to account for SOAV wood. Wood volume harvested outside of sale boundaries in conjunction with roadwork will be added to the first block opened.
- d. Informal sales must be paid in full at the time of the purchase.
- e. Failure to make any required payments will result in loss of bidding and operating privileges on St. Louis County Lands as determined by the Land Commissioner.

8. REMEDIES

If timber or other forest products not specifically sold in this Contract or designated by the Seller for cutting are cut, unreasonably damaged or removed by the Purchaser, the Seller may pursue any and all remedies for the unlawful 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 Contract remedies for breach. If Purchaser fails to pay or perform any obligations under the Contract, any other contracts between these parties will be denied until all pending obligations are satisfied.

9. DAMAGES

The damages to be paid to the Seller upon the Purchaser's failure to perform any term in this Contract include, but are not limited to:

- a. The purchaser shall pay 15% of the average bid value per acre of the sale area that has not been paid for and completely harvested.

15% X (Total sale value/Total sale acres) X Acres not PAID FOR AND completely harvested.
- b. If a block was paid for and not completely harvested and it is determined by the Seller that there is more wood than was appraised, the Purchaser will be charged for additional standing timber over and above the appraised volume.



9. DAMAGES (Continued)

- c. No refunds will be made for any payments received.
- d. In addition to the payments above, all costs of sale area cleanup, site damage compensation, standing timber charge or completion of performance not completed by the Purchaser will be billed to the Purchaser.

10. PRODUCTS TO BE REMOVED

Title to timber and any forest products sold under this Contract shall remain with the Seller until full or block payment for timber is received.

All cut products, buildings, and equipment not removed from the sale tract within 90 days after Contract expiration or at the end of the storage period granted by the Seller shall become property of the Seller.

11. SCALING PROCEDURE

All of the timber products included in this Contract shall be accounted for in the scaling process, with final settlement based on actual scale volumes. All timber sold under the Contract shall be scaled prior to the completion date and before it is removed from the Seller's property, unless such removal is specifically authorized by any of the following:

- a. Consumer scaling of cut products at approved Consumers.
- b. The species and products involved are sold-on-appraised-volume (SOAV).
- c. An alternate designated landing for scaling.

Persons authorized by the Seller will conduct such scaling, and the results will be conclusive upon both parties unless the Seller orders a rescale. Underutilized timber will be scaled and added to the harvest volume. All scaled volumes will be converted to the units sold using conversions determined by Seller, and will be used to determine the payments or refunds needed to adjust for overrun or under runs from the original estimate.

12. IDENTIFICATION OF TIMBER

All loads of timber in transit shall be identified with St. Louis County Timber Contract Number "C19 --- ". The hauler, as an agent of Purchaser, shall accurately identify the load (use of dark paint, ink or crayon to mark each side of the load at least (4) inches in height) as such at consumer scaling points and in response to any inquiries by public officials. Failure to comply with this provision may result in criminal charges being filed under Minnesota Statute 609.52 (theft) or a monetary penalty as approved by the Seller.

13. BLOCK COMPLETION

The Purchaser agrees to complete all operations on each portion of the sale area or each block as designated on the sale area map (Exhibit "C"), or other attachments or in the cutting requirements before beginning cutting in the next portion or block, unless agreed to otherwise by the Seller.

14. SURVEY MONUMENTS

The Purchaser agrees to pay for the cost of repair or replacement of land survey monuments, section corners, and other corner accessories, which are removed, defaced, or destroyed.



15. FOREST FIRE PREVENTION OR SITE PROTECTION

The Purchaser agrees to take reasonable precautions to prevent the starting and spreading of fires. Those precautions include, but are not limited to:

- a. Fully charged 5 lb or larger ABC fire extinguisher shall be carried on each off-road logging vehicle.
- b. All chainsaws and all non-turbocharged off-road logging equipment used in the operation shall be equipped with spark arrestors. Such arrestors may not be altered in any manner or removed and shall be properly maintained.

15. FOREST FIRE PREVENTION OR SITE PROTECTION (Continued)

- c. If a fire occurs, the Purchaser agrees to 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 takes all reasonable precautions to prevent, suppress and report forest fires. Those requests may include ceasing or modifying operations.
- e. The Purchaser may be responsible for damage and forest fire suppression costs caused by their operation under this Contract.
- f. Logging operations must have a main spill kit available on the landing as well as spill clean up materials in all pieces of equipment on site. The **Main Landing Spill** kit that must be on site at all times must include:
 - Absorbent material;
 - No smoking Sign;
 - Duct Tape;
 - Water Boom;
 - Wooden plugs or putty; and
 - Easy access on the site to a shovel, screwdriver and tools, and pail or pails to contain spill contaminated materials.

The **Spill Clean-Up Materials in Equipment** must include:

- Absorbent pads; and
- Assorted plugs or putty.

16. CLEANUP AND USE OF SALE AREA

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 by the Purchaser or when requested by the Seller.

No residence, dwelling, permanent structure, or improvement may be established or constructed on the sale area or other property of the Seller.



17. HAZARDOUS MATERIALS

The Purchaser agrees to properly use and dispose of all petroleum, synthetic and hazardous products, including but not limited to oil, oil filters, grease cartridges, hydraulic fuel and diesel fuel. Purchaser shall notify the Seller and the MPCA of all releases of reportable spilled quantities of hazardous substances on or in the vicinity of the sale area that are caused by Purchaser's employees, agents, contractors, sub-contractors or its employees or agents, directly or indirectly as a result of Purchaser's operations. Purchaser will take whatever initial action to contain all spills or releases. Removal and clean up will be the responsibility of the Purchaser in accordance with applicable statutes and rules of the State of Minnesota. MSDS sheets must be available on site for all hazardous materials present on the site. This includes fuel, lubricants, antifreeze, solvents and any other chemical product.

18. TITLE AND BOUNDARY LINES

The Seller guarantees 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.

19. ACCESS

The Seller agrees to secure entry and right-of-way for the Purchaser on and across the area covered by this contract, including access via land owned by a third-party if necessary. Any documents granting access will become part of this contract (Exhibit "D"). Purchaser may choose to acquire another access, but the Seller must first approve the route.

20. INDEMNIFICATION

The Purchaser agrees to protect, defend, 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, Purchaser's agents and employees, and all subcontractors. The State of Minnesota, St. Louis County, and their officials and employees shall in no way be liable for, and shall be free and harmless from, any damages, claims or actions which may arise from this authorization. There may be natural or artificial hazards, hidden or apparent, resulting from logging or management activities and, as consideration for this authorization, you must assume all risk of injury or other loss when entering the described State Tax-Forfeited Land for the removal of trees. You hereby waive any rights you may have to bring a claim under Minnesota Law.

Purchaser agrees, that in order to protect itself and the Seller under the indemnity provisions set forth above, it will at all times during the term of this Agreement keep in force policies of insurance indicated in paragraph entitled "Insurance".

This provision is not intended to create any cause of action in favor of any third party against the Purchaser or the Seller or to enlarge in any way the Purchaser's liability, but it is intended solely to provide for indemnification of the Seller from liability for damages or injuries to third persons or property arising from the Purchasers, Purchaser's agents' and employees, and all subcontractors' performance hereunder.



21. INSURANCE

The following insurance must be maintained for the duration of this Contract. A Certificate of Insurance for each policy must be on file with St. Louis County Land and Minerals Department prior to commencement of any work under this Contract. St. Louis County must be named as a certificate holder.

The Seller reserves the right to terminate any contract not in compliance with these requirements and retains thereafter to pursue any legal remedies against Purchaser. All insurance policies shall be open to inspection by the Seller, and copies of policies shall be submitted to the Seller upon written request.

1. General Liability Insurance

- a. Amount of coverage as determined by the St. Louis County Board or Minn. State Law, (current insurance requirements are available on our web site or contact sale administrator).
- b. Policy shall include at least premises, operations, completed operations, and contractual liability and environmental liability.

2. Business Automobile Liability Insurance

- a. Amount of coverage as determined by the St. Louis County Board or Minn. State Law, (current insurance requirements are available on our web site or contact sale administrator).
- b. Must cover all vehicles on site, including owned, non-owned and hired vehicles.

3. Worker's Compensation

Per statutory requirements, Certificate of Compliance with Minnesota Workers' Compensation Law (Minn. Stat. 176.182) must be provided.

GENERAL TERMS AND CONDITIONS

- A. The Purchaser is an independent contractor for all purposes including Worker's Compensation and is not an employee or agent of the Seller. The Seller agrees that the undersigned Purchaser, except as otherwise specifically provided herein, shall have the sole control of the method, hours worked, time and manner of any timber cutting to be performed hereunder. The Seller reserves the right to inspect the job site for the purpose of ensuring compliance with the performance specifications established under this Contract. 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 agrees to exercise no control over the selection and dismissal of the Purchaser's employees.
- B. **This Contract may not be assigned without written approval from the Seller.**
- C. The Purchaser must inform the Seller of any subcontractor(s) performing work on this contract before subcontractor(s) begin work and the Purchaser shall be responsible for the performance of all subcontractor(s). Purchaser will ensure that:
 - They, their employees and their sub-contractors have all necessary permits, approvals, or certifications required by law to conduct or support the work activities on site;
 - Copies of St. Louis County work instructions, the timber sale contract and map(s) are available to employees at the work site at all times;
 - Their employees and any sub-contractors working on the site, will be trained on St. Louis County work instructions that apply to their work activities;
 - Suppliers who deliver product or provide services on a St. Louis County work site must be under the Purchaser's supervision while conducting any activities on the worksite. Suppliers do not need to be trained in Land and Minerals Department Work Instructions and requirements. However, Purchaser is responsible for ensuring that supplier activities do not interfere with Land and Minerals Department requirements and direction in the event of any emergency is provided; and



GENERAL TERMS AND CONDITIONS (Continued)

- The timber sale contract and map(s) will be reviewed with Purchasers employees and any sub-contractors working on the site prior to commencement of work on the site; and
 - Compliance with "Sustaining Minnesota Forest Resources: Voluntary Site-Level Forest Management Guidelines".
- D. This Contract, as well as reference to parts, exhibits, and attachments, shall constitute the entire agreement. **Any amendments or addendums of the Contract shall be in writing, signed and dated by both parties.**
- E. During the term of the Contract, Purchaser shall bear risk of loss or injury, including liability for loss occurring from natural causes, acts of God, or human acts, including negligence, vandalism, trespass, or theft, for all timber products and species. Purchaser shall be responsible for obtaining insurance or self-insuring against risk of loss for the value of the sale.
- F. **OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION (OSHA) LOGGING REGULATIONS.** Conduct of operations on this timber sale is subject to inspection for compliance with the logging operations regulations at 29 CFR 1910.266 by OSHA. This standard is applicable to the entire logging industry wherever logging operations occur. Information is available to assist Purchasers to ensure compliance with the logging operations regulations during conduct of this timber sale from the U.S. Department of Labor, Occupational Safety and Health Administration, OSHA, 525 S. Lake Ave., Ste 300 Duluth, MN 55802, 218-733-7830.

GENERAL TERMS AND CONDITIONS

- G. Contract Exhibits: **The Exhibit documents and all requirements therein, will be part of this contract.**

- Exhibit "A" (Volume and Value Summary by Block)
- Exhibit "B" (Harvesting Provisions)
- Exhibit "C" (Sale Area Map)
- Exhibit "D" (Access, Water Crossing, Documents, Permits, Authorizations, etc.)
- Exhibit "E" (St. Louis County Land and Minerals Department Best Management Standards for Field Operations)

SELLER

By: _____ Date: _____
 Land and Minerals Department Representative

PURCHASER

By: _____ Date: _____
 Company _____
 Telephone No. _____