

(SAMPLE TIMBER SALE AGREEMENT)

NOTE-THE NORTH CAROLINA FOREST SERVICE STRONGLY RECOMMENDS THAT FOREST LANDOWNERS WORK WITH A REGISTERED FORESTER PRIOR TO SELLING THEIR TIMBER IN ORDER TO ENSURE THEY ARE MAKING THE BEST SILVICULTURAL AND FINANCIAL DECISION.

**FOREST PRODUCTS SALE AGREEMENT FOR PRIVATE LANDOWNERS
STATE OF NORTH CAROLINA, COUNTY OF _____**

This **AGREEMENT** is made and entered into by and between _____
of (address) _____ hereinafter referred to as the **SELLER**
and _____ of _____ (address)
hereinafter referred to as the **BUYER**.

WITNESSETH:

ARTICLE 1. THE SELLER:

1. Agrees to sell and the **BUYER** agrees to buy all forest products of all character, living or dead, designated for harvesting by the **SELLER** or his/her **AGENT** located and in the manner as described as follows:

A. Location and description of sale area. (Tract boundary and/or treatment area has been marked.)

B. Estimated volumes and products to be harvest and removed.

C. Method of marking or designating forest products to be harvested and removed.

2. Guarantees that he/she has full right and authority to sell the forest products described in Part 1 above and that such forest products are free from all liens and otherwise unencumbered.

3. Grants to the **BUYER** and his/her **CONTRACT LOGGER(s) or OPERATOR(s)** the right of ingress and egress across and upon the sale area and existing roads within the sale area. The **SELLER** or his/her **AGENT** also reserves the right to regulate ingress and egress.

4. Shall in no way assume any responsibility for damage to equipment belonging to the **BUYER, CONTRACT LOGGER(s), or OPERATOR(s)** or injury to persons employed by the **BUYER, CONTRACT LOGGER(s), or OPERATOR(s)**; said responsibility being totally assumed by the **BUYER, CONTRACT LOGGER(s) or OPERATOR(s)**.

5. Has set forth that the following conditions listed in **ARTICLE II** and known as **BEST MANAGEMENT PRACTICES (BMPs)** and referenced in the publication “North Carolina Forestry Best Management Practices Manual To Protect Water Quality” (amended 9-2006) apply to the sale of said forest products and will be adhered to by the **SELLER** or his/her **AGENT** and the **BUYER** and his/her **CONTRACT LOGGER(s) or OPERATOR(s)** insofar as practical and possible.

ARTICLE II. BEST MANAGEMENT PRACTICES: THE SELLER or his/her AGENT and the BUYER and his/her CONTRACT LOGGER(s) or OPERATOR(s) AGREE:

1. Roads

A. All pre-existing roads will be evaluated by the **SELLER** or his/her **Agent** for compliance with the BMPs. Where roads are not in compliance or new ones are needed, the costs and responsibility of installing improvements will be predetermined and agreed upon by all **Parties**.

B. The **SELLER** or his/her **AGENT** reserves the right to designate and approve the location of any new roads across and upon the sale area prior to construction of said road(s) to ensure that total road length and potential erosion and sedimentation is minimized.

C. All new roads constructed for the extraction and transportation of forest products shall follow the contour with grades of 10 percent slope or less. Where terrain or the use of existing roads requires short, steep grades, water diversion measures (broad based or rolling dips, turnouts, cross-drain culverts, etc.) shall be installed at the proper intervals (refer to the NC Forestry BMP Manual for supporting recommendations.)

D. New roads will be constructed on the sides of ridges to allow for proper drainage. New roads will not be located on ridge tops.

E. Except at planned stream crossings, new roads will not be constructed within the corresponding Streamside Management Zone (SMZ) of any stream, pond, or lake on the property. (See NC Forestry BMP manual for SMZ recommendations.)

F. All existing and newly constructed roads on and adjacent to the sale area shall be maintained in accordance with the BMPs and left in a passable condition during and at time of completion of the logging operation.

2. Stream Crossings

A. All pre-existing stream crossings will be evaluated by the **SELLER** or his/her **Agent** for compliance with the BMPs. Where roads or crossings are not in compliance or new ones are needed, the costs and responsibility of installing improvements will be predetermined and agreed upon by all **Parties**.

B. Where necessary, all new road stream crossings will require the use of the recommended diameter culvert size for that particular watershed unless the **SELLER** or his/her **AGENT** approves a bridge or ford in the creek. (See NC Forestry BMP manual for culvert sizing recommendations.)

C. All exposed soil at existing or new crossings will be stabilized with any one or combination of the measures recommended in the NC Forestry BMP manual.

D. Under no circumstances will stream crossings for roads, fellers, or skidders be made with logs and brush piled in the stream and covered with soil.

E. Streams are not to be randomly crossed by fellers or skidders. Where necessary, crossings will be by temporary culvert of appropriate diameter for the watershed, portable timber bridge, or other structure and approved by the **SELLER** or his/her **AGENT**.

3. Harvesting

A. No forest products, except those designated by the **SELLER** or his/her **AGENT**, shall be harvested.

B. All applicable Streamside Management Zones (SMZs) have been identified on the ground and any harvestable timber has been identified for removal such that the recommended basal area or canopy cover is left.

C. All trees cut shall be utilized within the stump height and merchantable top diameter consistent with sound forest harvesting practices.

D. Any and all timber not designated for removal as per **ARTICLE 1, Par. 1**, and not included in this sale but due to being unavoidably damaged or to facilitate the removal of said timber shall be paid for at the same stumpage price as the initial sale as determined by the **SELLER** or his/her **AGENT**.

E. All logging debris (trees, tops, and limbs) if felled into perennial or intermittent streams, rivers, or lakes will be removed immediately.

F. All log decks, portable sawmills, or chippers will not be allowed within the corresponding SMZ of any stream, pond, or lake on the property.

G. Skid trails will minimize soil compaction and rutting. Skidding will be conducted on gradual grades instead of straight up and down slopes as much as possible. Water bars will be constructed according to recommendations found within the NC Forestry BMP Manual when skid trails are retired at completion of logging.

H. All human garbage, tires, cables, used lubricants, fuels, fluids and their containers will be removed from sale area and disposed of properly.

ARTICLE III. THE BUYER AGREES:

1. That prior to execution of this agreement, to provide to the **SELLER** proof of Worker's Compensation coverage for all his/her **CONTRACT LOGGER(s) or OPERATOR(s)** who will be performing the work on this forest products sale; such coverage to be maintained throughout the period of forest products harvest operations.

2. To protect unmarked and undesignated trees and areas from damage during wood operations.

3. To repair to original conditions or pay for at replacement costs any damage to fences or other improvements of the **SELLER**.

4. To reimburse the **SELLER** from the escrow account or otherwise for all costs borne by the **SELLER** in suppressing any and all fires caused by the **BUYER** or his/her **AGENT** upon lands subject to this **AGREEMENT**.

5. To indemnify, release, and hold harmless the **SELLER** and his/her **AGENT** from and against all liabilities, damages, costs, and expenses arising from, by reason of, or in connection with the **BUYER'S** operations hereunder.

ARTICLE IV. BOTH PARTIES MUTUAL AGREE:

1. The **BUYER** agrees to pay to the **SELLER** the sum of \$_____ for all forest products designated for harvesting in **ARTICLE 1, Par. I** of this **AGREEMENT**.
2. Payment for the forest products shall be made to the **SELLER** in the following manner:

3. In lieu of a performance bond, \$_____ submitted with the bid on the forest products shall be held in an escrow account with the **SELLER** pending satisfactory completion of performance by the **BUYER** of all terms, provisions, conditions, and obligations on the part of the **BUYER** to be performed or observed in this **AGREEMENT**. The amounts so deposited shall be held to cover (a) any amounts which have become due the **SELLER** hereunder and that remain unpaid by **BUYER**; (b) the amount of any damage to forest products or property caused by failure of **BUYER** or his/her **CONTRACT LOGGER(s) or OPERATOR(s)** to fully observe and perform all conditions herein with respect to **BUYER'S** operation under this agreement; and (c) any costs, damages, or expenses to which the **SELLER** may be put by reason of default or breach of any terms, provisions, conditions, or obligations on the part of the **BUYER** to be performed or observed in this **AGREEMENT**. Upon written notification to the **SELLER** or his/her **AGENT** that forest products harvest has been completed, there shall be repaid to the **BUYER** any balance of said deposit remaining after **BUYER'S** obligations and performance in this **AGREEMENT** have been fulfilled.
4. The **SELLER** or his/her **AGENT** reserves the right to inspect all operations covered by this **AGREEMENT** on a periodic basis to determine whether or not the terms of this **AGREEMENT** are being carried out.
5. The **SELLER** or his/her **AGENT** reserves the right to adjust or suspend harvesting and/or hauling operations in their sole discretion when it is determined that ground conditions or harvesting practices would result in excessive damage to the road systems or forest resources. In the event of a suspension, the total term will not be shortened but rather the suspension time will be added to the **AGREEMENT** term.
6. Title to and responsibility for trees included in this **AGREEMENT** shall pass to the **BUYER** as they are severed from the stump and their removal from the property shall be the responsibility of the **BUYER**.
7. Any designated forest products, harvested or un-harvested, which remain on the sale area at the date this terminates, remain the property of the **SELLER**.
8. No oral statement by any person shall be allowed to modify or change any written portion of this **AGREEMENT**.
9. This **AGREEMENT** shall not be assigned in whole or in part without the written consent of the other **PARTY**.
10. Any breach of the terms of this **AGREEMENT** shall be cause for termination.

11. This **AGREEMENT** shall terminate on the _____ day of _____, 20____

12. In case of dispute over the terms of this **AGREEMENT** that cannot be satisfactorily agreed upon between the **PARTIES**, final decision shall rest with an arbitration board of three persons - one to be selected by each **PARTY** to this **AGREEMENT** and a third agreed upon by both **PARTIES**. Should the arbitration board determine a breach of the terms of this has occurred, said breach shall be cause for termination of **AGREEMENT**.

IN WITNESS WHEREOF, the **PARTIES** hereto have set their hand and seals this _____ day of _____ 20____.

BUYER: _____
DATE : _____
WITNESS : _____

SELLER: _____
DATE : _____
WITNESS : _____