

**SAMPLE TIMBER SALE AGREEMENT**

The sample Timber Sale Agreement on the following pages is provided as a guide to forest landowners who are considering selling timber. It is a **SAMPLE** only and should not be used verbatim. Most of the agreement is self explanatory. On some points, especially where several options are possible, a brief explanation or definition is included. You may wish to include other specific items. All of the items included in the sample contract may not pertain to your situation.

Particular attention should be given to Item D-12 pertaining to slash hazard reduction. The State Hazard Reduction or Management Law does not require 100 percent disposal of the slash fire hazard created. The law requires that the slash be reduced to an acceptable level. As the seller, you have the right to require more complete slash disposal in your contract. Keep in mind, however, that this will probably result in lower bid prices for your timber due to the increased hazard reduction costs.

It is strongly suggested that a professional forester familiar with logging, and the local timber market be contacted. He can advise you or prepare a final agreement based on the specifics of your proposed timber sale. You may also require the services of an attorney and/or a tax accountant.

The Forestry Division maintains a listing of forestry consultants working in Montana. They are available to help prepare, sell and administer timber sales. A copy of the consultant listing is available at the Department of State Lands offices.

**SAMPLE TIMBER SALE AGREEMENT**

\_\_\_\_\_ of \_\_\_\_\_,  
(I or we) (Name of Contractor) (Address)

hereinafter called the Contractor, agree to purchase from

\_\_\_\_\_, of \_\_\_\_\_, hereinafter  
(Seller's Name) (Address)

called the Seller, the designated timber from the area described below and as outlined on map Exhibit "A."

A. **DESCRIPTION OF SALE AREA:**

(Describe by legal subdivision, if surveyed, and approximate, if not.)

**TABLE I**

MINIMUM UTILIZATION STANDARDS

SPECIES	PRODUCTS	ESTIMATED VOLUME (MBF)	RATE PER MBF	MINIMUM UTILIZATION STANDARDS		
				TOP DIAMETER INSIDE BARK	LOG LENGTH	LOGS MUST 33 % SOUND
BE						

B. **HARVEST METHOD:**

1. The method of harvesting is \_\_\_\_\_.  
(Tree length or log length skidding by either tracked or rubber-tired equipment, cable skidding, etc.)
2. Possible equipment or skidding restrictions such as equipment size, type of blades, designated skid trails, landing size, etc.

C. **TREES DESIGNATED FOR HARVEST:**

Use one or more of the following:

1. All trees greater than \_\_\_\_\_ inches (diameter, breast, height) within cutting units shall be harvested.  
(Diameter limit cut.)
2. Trees designated for cutting are marked with two horizontal \_\_\_\_\_ (color) paint lines, one at the base of the tree, the other at four and one-half feet (4½') above the uphill ground line. (Selective Harvest.)
3. All trees meeting merchantability clauses under Table I shall be harvested, except leave trees marked with vertical \_\_\_\_\_ (color) paint stripes. (Selective harvest with leave trees marked.)
4. All trees shall be harvested from right-of-way clearings as designated by road back lines on either side of the right-of-way.
5. Standing dead trees that fall within merchantability standards in Table I may be harvested except for designated wildlife trees. Designated wildlife trees are marked with a vertical \_\_\_\_\_ (color) paint strip.

D. **CONDITIONS OF SALE:**

1. All logging will commence on or after \_\_\_\_\_ (Date). **NOTE**--Depending on the time of possession by the seller, he may want to delay logging to qualify for capital gains treatment of timber income. The annual

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volume removed or dollars paid may also be set to avoid paying higher income taxes.

2. **Method of payment**--Payment shall be in accordance with the rates shown in Table I paid on a bi-weekly basis and subject to paragraphs three and four below. **NOTE:** The seller can also designate how payment from the purchasing wood products firm is to be distributed.
  - a. Payments can be separated with the stumpage payment to the seller, and the rest to the contractor.
  - b. Payments can be made to the logging contractor, who then pays the seller the stumpage payment.
  - c. Payments can be made to the seller who then withholds the stumpage payment and forwards the balance to the logging contractor. This method serves as a type of "revolving" cash performance bond which is an incentive for the logging contractor to adhere to the contract.
  - d. Advance stumpage payments are also a consideration.
  
3. **Escalation**--The rates stated in Table I reflect the negotiated price offered by the contractor. These rates are subject to escalation each six-month period of the agreement beginning  
. Stumpage rates for each subsequent six-month period will be determined by obtaining the percentage relationships of the bid price of each species to the six-month average lumber price for that species, as reported by the Western Wood Products Association Price Trends for the period ending \_\_\_\_\_.  
Other relevant price trends may be substituted upon mutual agreement.
  
4. **Ownership of the timber** passes from the seller to the contractor \_\_\_\_\_. Use one of the following statements:
  - a. ". . . at signing of contract--usually for lump-sum sales . . ."
  - b. ". . . when severed from stump . . ."
  - c. ". . . when loaded on truck . . ."

d. ". . . when scaled at the processing plant . . ."

**NOTE:** The method of payment, and when the ownership of the timber passes from the seller to the contractor, is a determinate in your tax preparation. For more information see Agricultural Handbook Number 681, *Forest Owners' Guide to Timber Investments, The Federal Income Tax, and Tax Recordkeeping*. Stock #001-000-04540-7. The address is-- U.S. Government Bookstore, Room 101, 275 Peachtree St. NE, P.O. Box 56445, Atlanta, GA 30343. The cost for the handbook is \$5.00.

5. Sawlogs shall be scaled by the Scribner Decimal C log rule, or as otherwise agreed upon.
6. **Penalties:**
  - a. The contractor will furnish truck load receipt books and will be required to deliver a copy of the receipt with each load of forest products from the timber sale area to the seller. The contractor will be charged for each truck load receipt missing at the rate of eight (8) thousand board feet\* at the current contract rate on the ratio of each species to the total estimated volume of the sale.
  - b. Unmarked or undesignated trees, seed trees or boundary trees which are cut or injured through carelessness shall be considered cut in trespass and charged for at the rate of \$\_\_\_\_\_ each.
  - c. Trees which are designated for cutting under terms of this agreement, and/or logs which meet the minimum utilization standards set forth in Table I which are not removed from the sale area and presented for scaling, shall be charged at the current contract rate for the class of material which they contain, fixed in accordance with the terms of this agreement.
  - d. The contractor may be required to pay a penalty of \$\_\_\_\_\_ each for cutting long butts which, in the opinion of the seller, contains usable material in excess of the minimum utilization standards set forth in Table I.

\*Based on long-log hauling capacity.

- e. The contractor may be required to pay a penalty of \$ \_\_\_\_\_ for each tree stump cut higher than \_\_\_\_\_ on the side adjacent to the highest ground except in unusual cases, when in the discretion of the seller, this height is not considered practical.
- f. The amounts specified shall be regarded as liquidated damages and may be waived in the discretion of the seller in accidental or exceptional cases which involve small amounts of material or minor deviation from the conditions, standards or specifications.
- 7. **Liability for loss**--The contractor is responsible for loss or damage to timber while in his custody. This includes timber which is felled, skidded or decked, and timber which is lost or damaged after removal from the sale area, but before scaling.
- 8. Cutting of timber under this contract expires on \_\_\_\_ (Date) unless otherwise agreed to in writing by seller. Felled trees remaining after the above date become the property of the seller ninety (90) days following that date.
- 9. The contractor will be required to furnish a cash or surety bond in an amount of \$ \_\_\_\_\_ for faithful performance of the contract.

E. **THE CONTRACTOR AGREES TO THE FOLLOWING:**

- 1. To waive all claims to the above-described timber unless they are cut and removed on or before . (Termination Date)
- 2. To log only during the period (Dates) unless special arrangements are made with seller to log other than above-mentioned inclusive months.
- 3. Comply with all State Forest Fire Regulations.
- 4. To do all in his power to prevent and suppress forest fires on or threatening the sale area. Contractor shall be responsible for all fires which occur as a result of



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his activities.

5. To protect from unnecessary injury, young growth and other trees not designated for cutting.
6. At his expense shall repair damage caused by logging to ditches, fences, bridges, trails or other improvements damaged by logging operations. Throughout the duration and upon termination of this contract existing roads will be maintained at standards equal to or better than original.
7. Enter into a road use agreement with \_\_\_\_\_ (Agency or Landowner) for portion(s) of sale road that crosses \_\_\_\_\_ (Agency or Landowner) ownership.
8. Handle slash and logging debris as prescribed by Montana State Hazard Reduction Law.
9. Provide additional slash money in the amount of \$ \_\_\_\_\_/MBF merchantable, green timber, to cover slash cleanup and treatment beyond specifications required by State Law.
10. Contractor or his employees or agents may not remove fuelwood or firewood without explicit consent of the seller.

F. **THE SELLER AGREES TO THE FOLLOWING:**

1. To guarantee title to the forest products covered by this agreement and to defend it against all claims at his expense.
2. To allow the contractor to use unmerchantable material from tops of trees cut or from trees for necessary logging improvements free of charge, provided such improvements are left in place by the contractor.
3. To grant freedom of entry and right-of-way to contractor and his employees on and across the area covered by this agreement.

G. **RESOURCE PROTECTION:**

1. The contractor shall use reasonable skill and care in the operations to prevent damage to soils, roads, trails, meadows, stream banks, stream channels, lake shores or other natural features of the sale area.  
Montana  
Forestry Best Management Practices will be adhered to.
2. Equipment will not be operated in Streamside Management Zones, stream courses, seep areas, or springs. Any operation or construction in or near perennial streams may require a Streambed and Land Preservation (310) Permit prior to construction. Contractor shall comply with this law and all Montana Water Quality Standards.
3. The contractor will be required to construct erosion barriers, rolls, water bars or ditches, or outslope road beds on all roads, fire lanes, landings, and skid trails to prevent soil erosion before operations cease. Erosion control will be kept current and operational preceding expected seasonal periods of precipitation and runoff.
4. The contractor shall remove any debris resulting from logging or construction operations which may affect the natural flow of any stream within the sale area.
5. Logs shall not be hauled, skidded or yarded across streams unless fully suspended or by designated stream crossing sites.
6. The contractor will be required to restrict or suspend logging operation when soils are too wet, which they are subject to compaction or displacement by heavy equipment.
7. Refuse resulting from the contractor's use, servicing, repair or abandonment of his equipment shall be removed from the area.
8. Other restrictions as desired.

- H. The contractor is responsible for all injuries or accidents occurring as a result of logging and related activities.

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**Note**--Seller may require contractor to provide proof of compliance with workman's compensation laws.

- I. This contract cannot be transferred or subcontracted to another party without the written permission of the seller.
- J. In cases of dispute over terms of this agreement we agree to accept the decision of an arbitration board of three selected members as final. Each of the contracting parties will select one person and the two selected will select the third person to form this board.
- K. Violations of this contract by either party will be considered cause for termination.
- L. The statement below transfers the responsibility for forest practices under the 1991 Streamside Management Zone Law from the seller to the contractor.

The contractor is responsible for conducting logging operations in compliance with all laws relating to forest practices in the State of Montana. The contractor will be responsible for all penalties that result from violations of these laws.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 19

Seller

Contractor

Witness:

Witness:

(This contract is to be used as a **SAMPLE** copy only. Obtain services from your State Service Forester, Consultant Forester, attorney and/or tax consultant.)