SAMPLE TIMBER SALE CONTRACT¹

This Co	ontract is entered into by and between(Seller), and
	(Purchaser). Contact information is listed in par. 53 of this agreement.
The Sel	ler hereby authorizes the Purchaser to enter upon the following described lands (the Premises) for purposes of cutting and removing marked or otherwise designated by the Seller:
County	: Town Name:
Town:	N; Range ; Section; Legal Description(s)
Town:	N; Range ; Section; Legal Description(s)
Those I	Premises are further described on the map(s) or diagram(s) attached to and made a part of this Contract.
FOR A	ND IN CONSIDERATION of the following terms and conditions the Seller and the Purchaser mutually agree:
CONT 1.	 RACTING PARTIES CONTRACTING PARTIES a. Seller and Purchaser. In this Contract, the Seller and the Purchaser include their respective officers, employees, agents, directors, partners, representatives, successors, heirs and members. b. Purchaser Ceases to Exist. If the Purchaser ceases to exist, in fact or by law, the Seller may terminate this Contract without waiving any remedies available to it and take all action necessary to assure its performance. c. Subcontracting. 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. The Purchaser agrees to notify the surety, if any, of any such change or amendment.
ENTIR 2.	E CONTRACT ENTIRE CONTRACT. 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constitute the entire agreement and any previous communications or agreements pertaining to this Contract are hereby superseded.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.
3.	ATTACHMENTS. Any and all attachments to this Contract shall be made a part of this Contract and be fully complied with, including: a. Map(s) or Diagram(s) of Sale Area; b. Payment Schedule and Conditions of Payment; c. Other:

CONTRACT PERFORMANCE, PERIOD, EXTENSIONS AND TERMINATION

4. PERFORMANCE

a. 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 and only after submission and maintenance of all bonds, certificates or statements required under it.

b. Contract Oversight. Cutting and removal of timber purchased under this Contract shall be conducted in conformance with this Contract and in a good and workmanlike manner with reasonable diligence to assure completion of all performance within the Contract period specified in par. 5. The Purchaser shall notify the Seller or the Seller's Agent 36-48 hours prior to commencing harvest of the timber designated herein and 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

(Agent's name) both upon discontinuance and resumption of harvest. Notification under this paragraph may be made by telephone to ______ (phone number). The Seller or the Seller's Agent may require an onsite meeting before commencement of harvesting.

c. Inspection. The Seller retains the right of ingress and egress to and on the sale area and may inspect the sale area and trucks hauling forest products from or traveling on the sale area at any time. If the inspection reveals any violations of this Contract the Seller shall promptly notice the Purchaser. Upon notice from the Seller, the Purchaser shall promptly take measures to remedy the violation.

d. Access. The Purchaser has no access or privilege to go upon the Seller's property other than to comply with this Contract and may not authorize access or use to others except for the sole purpose of performing this Contract.

¹ Where options are listed with "OR", strike the option(s) that does not apply.

5. CONTRACT PERIOD				
	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. Contract amendments or extensions may not be relied upon by		
		the Purchaser for the purpose of completing performance under this Contract.		
	b.	The Seller may temporarily suspend operations under this Contract due to excessive property damage, wet conditions or at		
		other reasonable ² times upon notice to the Purchaser or other persons operating on the sale area under this Contract with		

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

subsequent equitable adjustment of this Contract as mutually agreed upon by the parties.

- 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:
- 7. **TERMINATION.** The Seller may terminate this Contract by oral or written notice to the Purchaser upon its breach. Upon such notice, the Purchaser shall cease all operations on and immediately leave, and not return to, the Seller's property unless otherwise provided by the Seller.

DOWNPAYMENT, BOND, REMEDIES AND DAMAGES

8.	DOWNPAYMENT. The Purchaser has given the Seller a dow	n payment in the form of cash, a certified check, or other form
	acceptable to the Seller in the amount of \$	[if none, enter "zero"] to commit to completion of the timber sale in a
	timely manner as specified in the Contract.	

9. **BOND.**

- a. A performance bond in the Seller's favor in the amount of \$_______, in cash, by surety bond, or in any other form accepted by the Seller, shall be submitted by the Purchaser no later than _______ to be retained by the Seller to assure full and complete performance of the Contract by the Purchaser to the Seller's satisfaction. Failure to submit the bond shall be considered a breach of this Contract and subject the Purchaser to liability for damages. The Purchaser agrees that the bond shall be forfeited to the Seller as liquidated damages upon the Seller's determination that a condition or term of this Contract has been breached by the Purchaser, unless the Seller chooses and can reasonably determine the actual damages suffered as a result of the breach of the Contract. Damages assessed under this Contract are the responsibility of the Purchaser and may be deducted from this performance bond and otherwise collected by the Seller.
- b. The Purchaser agrees that the performance bond may be retained by the Seller until all performance under this Contract has been completed to the Seller's satisfaction and the Seller determines the performance has been so completed. If the Seller determines the performance has not been completed satisfactorily and in conformance with this Contract, the performance bond may be retained by the Seller until the Seller can determine damages caused by the lack of performance. Only in the event the Purchaser provides written notice of sale completion to the Seller shall the Seller have sixty (60) days to determine that performance has been completed as required under this Contract

10. **REMEDIES.**

- a. If timber or other forest products not specifically described 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 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 Contract remedies for breach.
- b. If the Seller or Purchaser seeks damages for breach of this Contract through court proceedings, and if either party prevails in such proceedings, in whole or in part, then the non-prevailing party agrees to pay all of the prevailing party's actual and reasonable expenses, including attorneys and expert witness fees.
- c. The Seller agrees to mitigate the damages for breach by offering the timber for resale if it determines the timber is saleable based upon its volume or quality.
- d. The Seller may, when it deems it reasonable and in the best interest of the Seller, allow the Purchaser to continue performance under the Contract and the Purchaser shall pay as liquidated damages double the mill value as determined by the Seller for the timber or other forest products cut, removed or damaged without authorization under or in violation of this Contract. The Seller's permission to continue cutting shall not be considered a waiver of breach nor prevent it from considering such breach for purposes of asserting any other remedies available to it. It is agreed that the double mill scale sum is a reasonable estimate of the probable damages suffered by the Seller and shall not be construed as or held to be in the nature of a penalty.

² "Reasonable" in this contract is defined as fair, proper, just, moderate, and suitable under the circumstances, not arbitrary or capricious.

11.	DAN	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 agrees to 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 established in NR 46.30, Wisconsin Administrative Rules, for timber cut, removed or			
		unreasonably damaged without authorization under or in violation of this Contract. The Seller's decision to assess triple			

- 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.

waiver of other contract performance requirements.

e. The Purchaser agrees 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.

damages as provided here and to allow the Purchaser to continue performance under this contract shall not be construed as a

f. Additional damage provisions:

PRODUCTS TO BE REMOVED

- 12. No forest products may be removed from the Premises until the Purchaser pays for the products or guarantees payment for the products to the satisfaction of the Seller.
- 13. 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 cut and 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.
- 14. During the period of this Contract, the Purchaser is authorized and shall cut, remove and pay for the timber or forest products marked or designated as follows:

SALE TYPE, SCALING, HAULING AND PAYMENTS

I5. SALE TYPE³ [select one of the following three choices and strike the others]

LUMP SUM SALE:

SCALED PRODUCTS SALE:

SCALED PRODUCTS SALE:

OR

³ Lump sum and scaled products-flat rate methods are the most commonly accepted sale types. Landowners may have difficulty in finding purchasers willing to enter into graded product method sales, which are more difficult to administer.

⁴ For example, cordwood delivered to a paper mill would be paid for as pulpwood. Cordwood delivered to a sawmill would be paid for as sawbolts or sawlogs.

17.	the Seller's MILL SCA products ar name and a the wood p Payments s The of d OR Pay ded use 60 c The Cop	ALE. The Purchaser shall keep e to be delivered shall be given ddress for each load and request roducts. Failure to keep a record hall be made according to the factorial pay the Seller lelivery. The Purchaser shall be made ucted from the Purchaser sturned for any purpose other than the lays after the last load is hauled. Mill shall make payments for sies of the mill scale slips shall PRODUCTS TABLE	a record of each load to the Seller before cust Mills to provide copd of any load and its diollowing schedule [pictor the products delived copies of the mile in advance of hauling page payment balance estumpage account and from the Seller's projection of the products directly be included with payment balance and from the Seller's projections.	g, with the value of the measured vol e. The Seller agrees that advance stur d that any excess payments shall be r perty. ectly to the Seller within days onents to the Seller.	and considered theft. es of the Mills where wood ovide Mills with the Seller's rewithin days of receipt of Contract and considered theft. and strike the others]: nill scale slip, within days ume on the mill scale slips mpage payments shall not be eturned to the Purchaser within fellivery by the Purchaser.
su		Product (Sawtimber, Cordwood, Posts, Poles,		of product by species that is harveste on of damages. Price per Unit (MBF ⁶ , Cord, Piece, ton, etc.)	Total Value of Estimated Volume
Ha	arvested	Biomass, etc.)			
				Total Estimated Value:	
18.		volumes shall be determined brest Crop Law programs in Wis		al C system (required for land enrolle	ed under the Managed Forest
19.				eful piling. Peeled cordwood shall be in chapter NR 46.30 (1) (d), Wiscons	
20.	For Produc a. b.		on specifications publi	hts shall be converted to standard cor shed in chapter NR 46.30 (1) (g) seller and the Purchaser	ds using one of the following8:
		species	weight/cord	species	weight/cord
21.		ty or guarantee respecting the q		isal or cruise documents of the Seller ume of marked or otherwise designat	are estimates. The Seller gives
⁶ "MBF ⁷ Mills	means "the may measur	an additional "Ticket System" for busand board feet" e cordwood with a 4" trim allows conversions should be included	ance, resulting in 133 o		d on private lands.

HAULING PROCEDURE⁵ AND PAYMENT SCHEDULE FOR SCALED SALES [select one of the following two choices and

16.

strike the other]

⁴

UTILIZATION AND OPERATIONS

- 22. **STUMP HEIGHT; TOPS.** 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. For sales including cordwood products, trees shall be utilized to a 4" minimum top diameter. Title to tops shall remain with the Seller and may not be utilized by the Purchaser, or at the Purchaser's direction, unless otherwise specified in this Contract.
- 23. **WASTE.** The Purchaser agrees to 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.
- 24. **ZONE COMPLETION.** The Purchaser agrees to 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.
- 25. **DIGGERS HOTLINE.**. The Purchaser is responsible to contact the diggers hotline, or other informational sources performing similar services, prior to digging or conducting other activities on the property which may result in contact with utility or service lines or facilities.

26. ROADS, LANDINGS, MILL SITES, CAMPSITES, EROSION CONTROL, BEST MANAGEMENT PRACTICES (BMPs).

- a. When not otherwise designated by the Seller, the location of roads, 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 scattered within the sale area to the reasonable satisfaction of the Seller.
- 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 sub 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.):

 FR-093. Identify BMPs of particular concern:
er agrees to take precautions to prevent the spread of invasive species as described in Wisconsin Dep
purces' invasive species guidelines. Identify species and actions of particular concern:

27. SOIL DISTURBANCE AND RUTTING

- a. The Purchaser agrees to take all steps and precautions to avoid and minimize soil disturbances, such as soil compaction and rutting. If soil disturbances occur, the Purchaser agrees to work cooperatively to mitigate and repair any and all instances of soil disturbance.
- b. Excessive soil disturbance (as defined in Table 1) shall not be permitted. Purchaser agrees to contact Seller in the event of an excessive soil disturbance.

Table 1.Thresholds for soil disturbances.

Timber Sale Infrastructure	Soil disturbances are excessive if:
Roads, Landings, Skid Trails, and General Harvest Area	A gully or rut is 6 inches deep or more and is resulting in channelized flow to a wetland, stream, or lake.
Roads, Landings, and Primary Skid Trails	 In a riparian management zone (RMZ) or wetland, a gully or rut is 6 inches deep or more and 100 feet long or more. In an upland area (outside of RMZ), a gully or rut is 10 inches deep or more and 66 feet long or more.
Secondary Skid Trails and General Harvest Area	• A gully or rut is 6 inches deep or more and 100 feet long or more.

Note: The depth is to be measured from the original soil surface to the bottom of the depression. If individual lug depressions are visible, the depth would be measured to the lesser of the two depths (the "top" of the lug). The length is measured from the start of the "too deep" section to the end of the "too deep" section. Measurements are not cumulative.

- c. Prior to sale completion the Purchaser shall mitigate and repair soil disturbances to the Seller's satisfaction.
- d. Other restoration requirements (e.g. repair of soil disturbance or rutting on recreational trails used for skidding):

(1)	
(2)	

- 28. **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 agrees to apply for and obtain all approvals. The Purchaser also agrees to fully comply with all terms and conditions of intersection approvals.
- 29. **SURVEY MONUMENTS**. The Purchaser agrees to comply with s. 59.635, Wis. Stats., regarding perpetuation of landmarks and 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**. The Purchaser agrees to take reasonable precautions to prevent the starting and spreading of fires. Those precautions include, but are not limited to:
 - A minimum of one fully charged 5 pound or larger ABC fire extinguisher with a flexible spout 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 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 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 take all reasonable precautions to prevent, suppress and report forest fires. Those requests may include ceasing or modifying operations.
 - e. The Purchaser shall be responsible for damage and forest fire suppression costs, including that provided in ss. 26.14 and 26.21, Wis. Stats., caused by their operation under this Contract.
 - Other:
 - **SLASH REMOVAL**. Slash as defined in s. 26.12, Wis. Stats., shall be disposed of as follows:
 - a. 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.
 - b. Other:
- 32. CLEANUP AND USE OF SALE AREA.

f.

31.

- 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.
- b. No residence, dwelling, permanent structure, or improvement may be established or constructed on the sale area or other property of the Seller.
- 33. **HAZARDOUS MATERIALS.** The Purchaser agrees to 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 applicable statutes and rules of the State of Wisconsin.

34.	ADD	ADDITIONAL UTILIZATION AND OPERATION REQUIREMENTS AND INSTRUCTIONS:			
	a.	Between April 15 and August 15 all pine products must be removed from the site within two weeks, regardless of when they			
		were harvested.			
	b.	Oak wilt prevention: where oak trees are present, no cutting is allowed between and			
	c.	No trees or products over 16 feet in length may be skidded within the cutting area without written permission of the Seller.			
	d.	Other (If none, state None.)			

NOTICE OF INTENT TO CUT AND COMPLIANCE WITH LAWS

- 35. **SECTION 77 NOTICE AND REPORT**. The Seller / Purchaser [select one] shall file required cutting notices and cutting reports to the responsible DNR forester for lands that are under the Forest Crop Law and Managed Forest Law programs.
- 36. **SECTION 26 NOTICE.** The Seller / Purchaser [select one] shall file a declaration annually with the county clerk in any manner acceptable to the county of his or her intentions to cut forest products pursuant to section 26.03, Statutes, and comply with all other notice requirements, laws and ordinances with respect to work under this Contract.
- 37. **OTHER PERMITS**. The Seller and Purchaser shall work together on acquiring other necessary permits (such as wetland or stream crossing permits).
- 38. **APPLICABLE LAW**. This Contract shall be governed by the laws of the State of Wisconsin. The Purchaser shall at all times comply with all federal, state, and local laws, ordinances and regulations in effect during the Contract period.

TITLE, BOUNDARY LINES AND ACCESS

- 39. **TITLE.** The Seller warrants that the Seller has clear and unencumbered title to the stumpage subject to this Contract.
- 40. **BOUNDARY LINES**. The Seller guarantees to have the boundaries marked with paint or other suitable means before any timber is harvested.
- 41. **ACCESS**. The Seller agrees to 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.

LIABILITY AND INSURANCE

- 42. The Purchaser agrees to 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, who shall defend the Seller in any cause of action or claim.
- 43. Unless the Purchaser is exempted by the Seller from this coverage requirement as an independent contractor, as defined in s. 102.07(8)(b), Stats., and as determined by the Seller based on an affidavit submitted to it, the Purchaser agrees to elect to maintain worker's compensation insurance coverage for the cutting operation under this Contract and any and all employees engaged in cutting on the Seller's land during the period of this Contract regardless of any exemptions from coverage under chapter 102, Wis. Stats. The Purchaser must provide an original certificate of insurance naming the Seller as a certificate holder so the insurance carrier can notify the Seller should the insurance expire.
- 44. The Purchaser agrees to furnish the Seller with a certificate of public liability insurance covering the period of logging operations on the Seller's property for:
 - a. \$1,000,000 single limit liability for personal injury or \$1,000,000 bodily injury per person and \$1,000,000 per occurrence;
 - b. \$100,000 property damage.
- 45. The Purchaser shall notify the Seller in writing, immediately upon any change in or cancellation of insurance coverage required by this Contract.
- 46. 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 only to inspect the job site for the sole purpose of insuring that the cutting is progressing in compliance with the cutting practices 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 it's employees. The Seller further agrees to exercise no control over the selection and dismissal of the Purchaser's employees.

⁹ County cutting notices expire by law on December 31 and so must be renewed annually.

- 47. **OSHA COMPLIANCE, DANGER TREES**. The Purchaser is responsible to comply with, and assure compliance by all employees or subcontractors with, all Occupational Safety and Health Act (OSHA) requirements for the health and safety of Purchaser's employees, including provisions relating to danger trees. In addition, the Purchaser agrees to notify, and obtain agreement from, the Seller if the Purchaser intends to modify performance required under this Contract for the purpose of compliance with OSHA requirements. Not withstanding OSHA regulations, the Purchaser agrees to apply appropriate safety precautions.
- 48. **ACTS OF GOD**. 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.

TRAIN 49.	performance of this (Alliance (FISTA) or	IREMENT . The Purchaser is Contract holds a current loggin	ng safety training	nsuring that the actual logging certificate issued by the Forest er. Purchaser agrees to provide	Industry Safety & Training
FORE 50.		STANDARD AND CERTIF		nd management area encompass	sed by this timber sale is certified lbers):
	_	American Tree Farm System (A		Certificate #	
		Forest Stewardship Council (FS Vood sold under FSC is claime		Certificate #	-
	\$	Sustainable Forestry Initiative	(SFI)	Certificate #	_
		(Other Standard)	Certificate #	_
51.	CHAIN OF CUSTO stump, log landing o		n of custody prov	ided by the Seller under the pre	eceding certificates ends at the
52.	Wisconsin Managed			ment area encompassed by this to provide the Purchaser with a	
CONT 53.		RMATION:			vith their Social Security Number
Seller:			Purchaser:		
Name			Name		-
Addres	s:		Address:		
Phone:			Phone:		-
Cellula	r Phone:		Cellular Phone:		
We hav	ve read and understand	d the entire Contract comprised	d of page	s.	
		SELLER			
Date		by			
		PURCHASE	ER		