



Letter of Agreement For Sale of Timber on State Forest Land

Indiana Department of Natural Resources,
Division of Forestry



SUSTAINABLE
FORESTRY
INITIATIVE

Certificate Number: 6L841-S1



FSC
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THIS AGREEMENT, entered into this ___ day of ____, ___ by and between the Indiana Department of Natural Resources, Division of Forestry, (hereinafter "the Seller"), and ____ (hereinafter "the Purchaser").

The Seller agrees to sell to the Purchaser, upon the terms and conditions hereinafter stated, all of the merchantable timber contained in ___ living and/or dead trees and ___ culls, all marked or designated by the Seller on a certain tract of land situated on an area of approximately _____ acres in the ____ of Section ____, T-_, R-_, of __ County, Indiana, in __ State Forest, and being more particularly described on attached State Forest Form SF-203 hereto.

The property may be further described as Compartment ____ Tract ____ and designated on attached State Forest Form SF-201.

All trees to be sold have been marked by applying ___ paint on the trunk and a spot on the stump.

Within fourteen days from the date of bid opening, the Purchaser agrees to pay the Seller for said timber an amount equal to or greater than ten percent (10%) the bid amount. Any payment of less than the total bid amount (purchase amount) of \$ ___ is known as a down payment. The receipt from the Purchaser of the sum of \$ ___ is hereby acknowledged by the Seller. Purchaser may not commence harvest operations until payment of the total bid amount is made in full and this agreement is approved.

The Purchaser further agrees to cut and remove said timber in strict accordance with the following conditions:

1. The Purchaser agrees to pay the remaining balance of the bid amount, which is \$ ____, within six months of the date of bid opening and prior to the start of harvest operations. Failure of the Purchaser to pay the remaining balance of the purchase amount within six months of the bid opening date will result in immediate termination of this instrument, with all rights to said timber reverting to the Seller, and the forfeiture of any down payment and the performance deposit by the Purchaser.
2. All timber shall be cut and removed no later than the __ day of __, __, which is the expiration date of this agreement. Title to all standing or felled timber which remains on State Forest lands after the termination or expiration date of this agreement, shall revert to the Seller. An extension of the expiration date may be agreed upon in writing between the Seller and the Purchaser. This instrument may be terminated prior to the stated expiration date as agreed to in writing by the Seller and the Purchaser.
3. Purchaser assumes liability for damage caused to unmarked trees and residual timber unless damage incurred is incidental to reasonably executed removal procedure.
4. The Purchaser's employees and/or contractors and/or subcontractors are required to attend a pre-harvest conference prior to commencement of any logging operations. Purchaser is responsible for informing all employees and/or contractors and/or

subcontractors of all provisions covered in this agreement. The Purchaser binds his successors, executors, administrators, and assignees to all covenants of this agreement.

5. The Purchaser shall not assign or subcontract the whole or any part of this agreement without the Seller's prior written consent. No permitted assignment shall release the Purchaser from the terms of this agreement and from liability for the fulfillment of this agreement.
6. The Purchaser shall advise the Property Manager three (3) days prior to the commencement, discontinuance and completion of logging operation. The Property Manager may deny access to Purchaser when wet conditions may result in Purchaser's activities causing unreasonable rutting and erosion. The deadlines established for completion of this agreement may be amended according to mutual agreement of the parties when soil condition delays occur.
7. All log roads, log yards, and skid trails will be smoothed such that ruts (resulting from harvest operations) will be filled by the Purchaser as specified by the Seller. During harvest operations, all ruts greater than 18 inches in depth shall be promptly leveled. Upon sale closeout, no ruts shall be left that are greater than 12 inches in depth for a length of ten feet or more, unless specified by the Seller for documented purpose.
8. Logging roads, skid trails and log yarding areas may be constructed and used by the Purchaser only after their location has been designated by the Seller with such location and construction being at the sole discretion of the Seller.
9. As soon as practicable, or as designated by the Seller and before the termination of this agreement, the Purchaser will construct water bars or other soil conservation measures, in accordance with Best Management Practices techniques on log roads, skid trails, landings, yards, and stream crossings where needed to prevent unreasonable erosion, stream sedimentation and floodway obstruction.
10. Purchaser agrees to leave no logging debris, including but not limited to tree tops or logs from trees, in floodways, crop fields, pastures, or stream beds located on State Forest property in accordance with Best Management Practices techniques as specified and identified by the Seller.
11. Contaminants drained from equipment shall be placed in suitable containers and disposed of by the Purchaser in accordance with Best Management Practices. The Purchaser further agrees to comply with all applicable federal, state and local laws, rules, regulations or ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment of any state or federal statute or the promulgation of regulations thereunder after execution of this agreement shall be reviewed by the Seller and the Purchaser to determine whether the provisions of the agreement require formal amendment.
12. All refuse generated by Purchaser's activities shall be removed from the premises on a daily basis.
13. The Purchaser and his/her employees shall take reasonable precautions to prevent and control fires.
14. Privileges of ingress and egress to the property shall be obtained by the Purchaser before the logging operation begins.

15. Fences damaged or destroyed by the Purchaser in the removal of timber included in this agreement shall be repaired or replaced by the Purchaser to the condition of the fences prior to sale. Fences so damaged shall be replaced or repaired before the timber leaves the site.
16. The Purchaser shall ensure that at least one person (timber buyer, supervisor, crew member) who is responsible for working on this timber harvest will have completed, at a minimum, the Game of Logging (GOL) Level 1 Cutter Training and Introduction to BMPs training. The Purchaser agrees to provide the name(s) of the person(s) meeting this training requirement prior to the start of harvest operations. Purchasers and/or logging crews from out-of-state may meet this requirement by having completed equivalent training in their resident state, subject to the approval of the Seller.
17. The Purchaser agrees to the following additional conditions: _____
18. Purchaser shall comply with OSHA General Industry safety standards.
19. Purchaser shall comply with the guidelines in Logging and Forestry BMP's for Water Quality in Indiana Field Guide, unless otherwise specified by the Seller. The Purchaser shall complete these guidelines within fourteen days of the removal of the last load of logs from the sale area, or the removal of harvesting equipment, whichever occurs first, or as specified by the Seller. If circumstances require that harvest operations cease for a period longer than 14 days, including but not limited to soil conditions, these guidelines will be implemented by the Purchaser at the time of operation cessation as specified by the Seller.
20. Purchaser shall not discriminate against any employee or applicant for employment, to be employed in the performance of this agreement, with respect to his/her hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment, because of his/her race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant, may be regarded as a material breach of this agreement.
21. The Purchaser agrees to indemnify, defend, and hold harmless the State of Indiana and its agents, officers, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by any act or omission of the Contractor and/or its subcontractors, if any. The State shall not provide such indemnification to the Contractor.
22. Upon verbal or written notice by Seller of Purchaser's failure to comply with conditions and requirements of this agreement, Purchaser shall suspend all operations in the sale area. Failure to comply with conditions and requirements of this agreement may result in a forfeiture of a portion or all of the performance deposit. The performance deposit is an amount at least equal to 5% (five percent) of the full purchase amount.

- 23. Notices: Any notice required or permitted to be given under this agreement shall be deemed to have been received by the respective parties if hand delivered or properly addressed with first class postage prepaid to the following address:

Seller: *(Property Managers Name and Address)* Purchaser:

Name	Name
State Forest	Company
Address	Address
Phone number	Phone number

- 24. The State will in good faith perform its required obligations hereunder and does not agree to pay any penalties, liquidated damages, interest, or attorney’s fees, except as required by Indiana law, in part, IC 5-17-5-1 et seq., IC 34-54-8-1 et seq., IC 34-54-8-3 et seq., IC 34-54-8-5 et seq., and IC 34-13-1-1 et seq.
- 25. This agreement shall be construed in accordance with and governed by the laws of the State of Indiana and suit, if any, must be brought in the State of Indiana.
- 26. No right conferred on either party under this contract shall be deemed waived and no breach of this agreement excused, unless such waiver or excuse shall be in writing and signed by the party claimed to have waived such right.
- 27. The Purchaser and its agents shall abide by all ethical requirements that apply to persons who have a business relationship with the State of Indiana, as set forth in Indiana Code 4-2-6 *et seq.*, the regulations promulgated thereunder, and Executive Order 04-08, dated April 27, 2004. If the Purchaser is not familiar with these ethical requirements, the contractor shall refer any questions to the Indiana State Ethics Commission or visit the Indiana State Ethics Commission website at <http://www.in.gov/ethics>. If the contractor or its agents violate any applicable ethical standards, the State (the Seller) may, in its sole discretion, terminate this contract immediately upon notice to the Purchaser. In addition, the Purchaser may be subject to penalties under Indiana Code 4-2-6-12.
- 28. The undersigned attests under penalties of perjury that they are the contracting party, or that they are the representative, agent, member or officer of the contracting party, that they have not, nor have any other member, employee, representative, agent or officer of the firm, company, corporation or partnership represented by them, directly or indirectly, to the best of their knowledge, entered into or offered to enter into any combination, collusion or agreement to receive or pay, and that they have not received or paid, any sum of money or other consideration for the execution of this agreement other than that which appears upon the face of the agreement.
- 29. Compliance with Telephone Solicitations Act as required by IC 5-22-3-7.
 The Purchaser and any principals of the Purchaser certify that
 - A. The Purchaser, except for de minimis and nonsystematic violations, has not violated the terms of
 - (i) IC 24-4.7 (Telephone Solicitation of Consumers),
 - (ii) IC 24-5-12 (Telephone Solicitations), or
 - (iii) IC 24-5-14 (Regulation of Automatic Dialing Machines) in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and

- B. the Contractor will not violate the terms of IC 24-4.7 for the duration of the agreement, even if IC 24-4.7 is preempted by federal law.

The Purchaser and any principals of the Purchaser certify that an affiliate or principal of the Purchaser and any agent acting on behalf of the Purchaser or on behalf of an affiliate or principal of the Purchaser:

- A. except for de minimis and nonsystematic violations, has not violated the terms of IC 24-4.7 in the previous three hundred sixty-five (365) days, even if IC 24-4.7 is preempted by federal law; and
 - B. will not violate the terms of IC 24-4.7 for the duration of the agreement, even if IC 24-4.7 is preempted by federal law.
30. The Purchaser hereby agrees to protect, indemnify, and save harmless the State of Indiana from any and all liability for personal injuries, death and/or property damage suffered or incurred by any person in connection with the Purchaser's performance of this agreement. The Purchaser shall carry Workers Compensation and Liability Insurance as required by State and Federal Law.
31. The parties having read and understand the foregoing terms of the agreement do by their respective signatures and date below hereby agree to the terms thereof.

January 4, 2008

Appendix II-G-2

Page 6

IN WITNESS WHEREOF, the parties have executed this agreement as of the day and year first written above.

PURCHASER

Company Name: _____

Company Representative

Print Name: _____ Title: _____

(signed) _____

Timber Buyer License Number: _____

STATE OF INDIANA, _____ County, SS:

Before me, the undersigned Notary Public in and for said County, this _____ day of _____,

_____, came _____, Representative of

_____ and acknowledged the execution of the foregoing instrument.

Name of Notary Public;

(Print Name)

(Signature)

Expiration of Commission: _____

County of Residence: _____

IDNR, Division of Forestry Authorization;

John R. Seifert, State Forester

Date