

# FORESTRY Leaflets

North Carolina Division of Forest Resources

FM-1

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## SUGGESTED PROVISIONS FOR TIMBER SALE CONTRACTS

*The sale of timber is often a major venture involving thousands of dollars. It is in the best interest of both the seller and the buyer to have a contract which covers the sale of the timber. Consulting foresters are available for timber estimates or to handle timber sales. An attorney should be employed to draw up the actual contract which protects both you the seller and the purchaser. The following list of items should be considered when preparing a "Timber Sale Contract."*

### 1. Date of Agreement

### 2. Names and Addresses of Seller and Buyer

### 3. Declaration of Seller's Ownership and Right to Convey

The seller should declare ownership and right to convey the timber; guarantee the title to the timber; and guarantee to defend all claims against the timber.

### 4. Right of Ingress and Egress

The seller should guarantee the buyer the right to ingress and egress (enter and exit the land).

### 5. Tract Location

A legal description of the tract, including the exact location, acreage, boundaries, and a map of the timber area to be sold.

### 6. Statement of Type of Cutting

This may be clearcut, selectively marked, row thinning in plantations, seed-tree, or other cutting methods. Designate volume by species, unit of measure, log rule, and form class if available. State how trees are marked on a selective timber sale.

### 7. Purchase Price and Method and Terms of Payment

The purchase price may be for a lump sum or on a value per unit basis. Timing of payments(s) must be clearly stated. If more than one payment is to be made, consideration should be given to paying interest on the unpaid balance.

### 8. Duration of the Agreement

State a time period which the timber must be cut and removed. Provisions for extending time limits, which may include penalties, should be included.

### 9. Conditions Governing Removal of Timber

Specific clauses allowing or restricting certain equipment; designating areas for skidding, decking and loading; the siting of portable mills; limits on buyer's ingress and egress; seller's right to approve the location of new roads before construction; or seller's right to halt the harvesting operation when weather conditions or heavy equipment use results in compaction, rutting, or other site damage may be stated. The buyer may be required to notify the seller prior to moving equipment onto the tract for logging.

## 10. Conditions Governing Care of Other Property

Specific clauses relating to the payment for trees cut or damaged that were not included in the sale; maintenance and restoration of existing roads; repair and replacement of fences, bridges, or other structures; removal of tops, limbs, or other debris from fields, pastures, roads, ditches, streams, rights-of-way, or across property lines may be stated.

## 11. Utilization Requirements

Include maximum stump heights. If seller is to be paid by volume cut, minimum lengths and diameters of merchantable material and penalties for noncompliance may be included.

## 12. Ownership of Residues

Establish the ownership of slabs, tree tops, cones and seed, sawdust, or other residues in the contract. Normally, in a clear-cut sale the buyer is entitled to all residues. For sales where designated trees are purchased by cruised volume, the owner may wish to retain ownership of residual materials and entitle the buyer to only the logs.

## 13. Assignment of the Contract

A provision for or against the assignment of the contract to another should be established.

## 14. Measures to Protect Wildlife Habitat

Include specific measures to protect or enhance wildlife habitat such as: revegetating roads, skid trails, and log decks with grass or wildlife seed; leaving hollow tree for dens and nesting sites, leaving food bearing trees such as oaks, dogwood, persimmon, etc; or excluding unique habitat types for rare and endangered species. (Additional information on enhancing wildlife habitat is available from many sources.)

## 15. Condition Governing the Implementation of Forest Practice Guidelines

Include specific clauses to insure compliance with the Forest Practice Guidelines related to water quality in order to retain the forestry exemption provided in the N.C. Sedimentation Pollution Control Act of 1973, G.S. 113A-52(6). Additional information on Forest Practice Guidelines is available from your County Forest Ranger.

## 16. Fire Protection

Purchaser should be required to comply with all fire laws and immediately suppress at his expense any fire originating from accident or negligence of the purchaser or his agent. He should also be liable for all damages to merchantable timber and young growth or other property of the seller which may be caused by such fires.

## 17. Performance Bond and Financial Responsibility of the Buyer

The buyer should be compelled to carry personal liability insurance, property damage insurance, and Workman's Compensation Insurance for the period of the contract. To insure performance, the buyer may be required to put a cash bond in escrow.

## 18. Arbitration in Case of Disagreement

Generally, each party names one person and these two agree on a third to settle a dispute.

## 19. Signature of All Parties and Notarization

## 20. Registration

Timber sale contracts convey real property and they should be recorded at the courthouse.

