

CONTRACT FOR SALE OF TIMBER  
ALABAMA FORESTRY COMMISSION  
NATIONAL FORESTS IN ALABAMA  
FS TIMBER SALE #20-9

STATE OF ALABAMA            )  
COUNTY OF CHILTON        )

KNOW ALL MEN BY THESE PRESENTS, that this contract, this day made and entered into, by and between the Alabama Forestry Commission, hereinafter called the Department, and XXXXXXXX., hereinafter called the Contractor, witnesseth that

WHEREAS, the State of Alabama Forestry Commission acting as agent for the United States Forest Service for the following described land located in Chilton County, Alabama:

This sale area of 577 acres, more or less, within the Talladega National Forest is located in: Sections 35 & 36, Township 21 North, Range 11 East, and portions of Sections 1 & 2, Township 20 North, Range 11 East, Chilton County, Alabama.

WHEREAS, the Department has offered for sale all designated timber on said land, and

WHEREAS, a written Notice of Sale was mailed to all known timber buyers in Chilton and adjoining counties; said notice containing a description of the timber to be sold and the terms and conditions under which it is to be sold, and

WHEREAS, sealed bids were submitted to the Department on the 6th day of August 2020 and upon inspection of said bids, the Contractor was found to have submitted the highest bid.

The Contractor agrees to pay the following per-ton rates for the designated timber: pine pulpwood – per ton, pine canterwood – per ton, pine chip-n-saw – per ton, pine sawtimber – per ton, hardwood pulpwood – per ton, and hardwood sawtimber – per ton. Payments are to be made on a weekly basis. Checks are to be made to the Alabama Forestry Commission and mailed along with a weekly settlement statement to the Alabama Forestry Commission, c/o David Kelley, P.O. Box 302550, Montgomery, AL, 36130-2550.

The Department hereby grants, bargains, sells and conveys all designated timber on the above said land to the Contractor together with the right and privilege of ingress and egress on said land for the purpose of cutting and removing said timber subject to the following terms, conditions, and provisions:

I. The Contractor (and its agents, employees, assignees, or subcontractors approved under stipulations of this contract) agrees and promises to cut and remove said timber in strict accordance with the following conditions:

**(a) In the blue-shaded and purple-shaded sale areas shown on the attached map, only un-marked trees are to be cut.** The sale area boundaries are marked with orange paint as delineated on the attached map. Leave trees are also marked in orange paint. All orange-marked trees within these sale areas shall be left uncut and are to be protected from damage during harvesting operations. Any orange-marked trees, or trees outside of these designated sale areas, that are cut by the Contractor, its agents, assignees, or employees, shall be paid for by Contractor at the rate of one hundred dollars (\$100.00) per tree or double the fair market value of the tree, as determined by Department representatives. **HOWEVER, the Contractor may find it necessary to cut some orange-marked trees for log landings, skid trails, and for access to unmarked trees. In case it is necessary due to access or other problems to cut an orange-marked tree, the Department may waive this requirement by written agreement provided prior consent is obtained beforehand by the Contractor from the appropriate Department representative.**

**(b) In the yellow-shaded sale area shown on the attached map, only trees marked with BLUE paint are to be cut. Also, a few trees have been marked with yellow paint along the road running through all the sale areas. These yellow-marked trees may also be cut.**

(c) The designated timber to be cut and utilized shall equal or exceed the following minimum dimensions: Merchantable timber is defined as any tree with a 2.5 inch minimum top, 6 inch minimum butt, with 20 feet minimum length and larger. In sale areas in which all merchantable timber is to be harvested, Contractor is required to harvest all trees fitting this description and larger. Any tree material smaller than this may also be harvested by Contractor by written agreement from the Department representative. Merchantable timber may be left on excessively steep slopes or other areas inaccessible by logging equipment by written agreement from the Department representative.

(d) Unless written extension of time is granted, said timber shall be cut and removed on or before the end of 24 consecutive months from the date hereof, after which term the title to said timber shall revert to the Department and all rights and privileges herein granted the Contractor shall terminate. Additional time may be added to the contract when the Department has, in its sole discretion, deemed it necessary to suspend harvesting operations on the sale area due to adverse weather conditions, or other extreme contingencies. When timber harvesting operations are suspended the Contractor will be notified by the Department as to when harvesting operations may resume. The total number of days suspended for weather delays or other extreme contingencies will be added to the contract with no penalty to the Contractor.

(e) All designated trees shall be cut to stump heights of no more than 12" from ground level except where otherwise agreed to in writing by the Department representative. No stump will be cut so low as to eliminate the paint mark.

(f) All undesignated trees shall be protected against unnecessary damage by felling, skidding, and hauling operations by Contractor. Unnecessary damage, defined as the removal of more than one square foot of bark from a single tree, shall be penalized by a fine of twenty-five dollars (\$25.00) per damaged tree or fair market value of the tree, whichever is greater, to be determined by the Department representative. Provided that such payment shall not release Contractor from liability for any damage occurring, other than for value of said trees. The amounts specified shall be regarded as liquidated damages, and may be waived in writing at the discretion of the Department representative in accidental or exceptional cases which involve small amounts of material.

(g) Periodic inspections of the cutting and logging operations during the life of this contract will be made by Department representatives. Such representatives shall have full authority to require the Contractor to change its cutting operation or procedure when such operation or procedure is unnecessarily damaging sale area or that of surrounding private landholdings. The Contractor agrees to correct, insofar as possible, any infractions of the contract disclosed by these inspections.

(h) The Contractor agrees not to assign this contract in whole or in part without the written consent of the Department.

(i) Prior to commencement of harvesting activities, Contractor is to notify the appropriate Department representative at least three (3) working days beforehand so that appropriate arrangements can be made as identified in section III, (d), (1) of this contract. Upon completion of the harvesting operation, Contractor is to notify the Department representative at least two (2) working days prior to completion so that a final inspection of the sale area can be made. Contractor agrees to correct, insofar as possible, any infractions of the contract disclosed by these inspections.

(j) No tops, limbs or butts shall be piled within five feet of living trees. All "lodged" trees shall be freed and removed the same day such "lodging" occurs. Contractor-created slash will be distributed within the take-out rows, skid trails and on log landings to aid in minimizing soil and resource damage. Slash and debris piles located on log landings and/or that accumulates in other areas of the sale shall be no greater than 3 feet in height unless otherwise

approved in writing by the Department representative. Contractor will keep all tree tops and other logging debris from streams, drainage ditches, and roadways.

(k) Skidding trees down roads and recreation trails is prohibited unless otherwise approved in writing by the Department representative. These areas will be kept free of logs, tops, brush and debris resulting from Contractor's operations. Any road, recreation trail or firebreak used by Contractor, in connection with this sale, that is damaged by skidding or logging equipment shall be repaired promptly by Contractor at Contractor's expense to its original condition.

(l) Due care shall be exercised against starting and spreading fires during logging operations by Contractor and/or Contractor's employees. Contractor will be liable for all fire damages caused by negligent operations.

(m) To minimize the possibility of transporting and spreading exotic plant species, harvesting equipment and skidders must be cleaned of all dirt and plant material prior to moving on to the sale area and other harvest areas if exotic plant species are present.

II. The Contractor also agrees to the following conditions and agreements which are binding upon it as a part of the consideration of this contract:

(a) To pay for all damages caused by Contractor, its agents, employees, or assignees to fences, ditches, terraces, roads, bridges, utility lines, land survey monuments, signs or other improvements on said land or to any water courses thereon, or on land or water courses of adjoining landowners through which Contractor must use to gain access to said timber.

(b) To hold the Department harmless from any liability which may be incurred or caused by Contractor, its agents, employees, or assignees in any operation connected with the cutting and removal of said timber. This liability also includes, but is not limited to, any damages which may be caused to adjoining landowners by fire, erosion, use of any water course, or overflow as a result of negligent acts or omissions by Contractor under this contract.

(c) The Department may by written order, delay or interrupt the Contractor's operations under this contract and may modify this contract to allow for environmental analysis, ensuring consistency with National Forest land and resource management plans, or to prevent environmental degradation or resource damage, including, but not limited to, harm to habitats of endangered, threatened or sensitive plants or animal species, cultural resources, or cave resources.

(d) To keep all pre-existing firelanes and roads open and free from obstruction during the term of this contract, and to establish only such temporary roads as necessary for the removal of said timber. The Contractor may open up control points upon written approval by the Department representative on closed firelanes for access to said timber. Any control points so opened must be closed or replaced immediately after cutting operations are complete.

(e) To obtain proper permission from adjoining landowners should it be necessary to do so in order to access said timber.

(f) The Department reserves the right to assess a penalty for any designated merchantable timber as described in I, (b), and not moved from the sale area at the expiration or termination of this Contract. The rate paid by Contractor will be twenty-five dollars (\$25.00) per merchantable tree..

(g) The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin.

(h) In case of dispute over the terms of this Contract 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 Contract 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 Contract.

III. With this timber sale being part of a highly visible, public forest, the Department is duly concerned that the Contractor exercise appropriate procedures to protect the various natural resource values present on the property. Therefore, the Contractor further agrees to the following provisions:

(a) To comply with all applicable state and federal water quality laws which protect the physical, chemical, and biological integrity of waters of the State/US on this property, including but not limited to pertinent sections of the Alabama Water Pollution Control Act, the Federal Water Pollution Control Act, the Clean Water Act, the Water Quality Act, and (if applicable) the Coastal Zone Management Act.

(b) To comply with Alabama's Best Management Practices for Forestry for their practices and techniques in protecting the integrity of the waters of the State/US during and immediately after ongoing operations. In addition, all federal BMP's applying to roads constructed and maintained within wetlands shall be followed. Alabama's Best Management Practices for Forestry are not expected to be all-inclusive and the Contractor shall make on-site decisions and a good faith effort to be in compliance with all water quality laws listed above.

(c) Historic and/or Cultural Resource sites needing special protection may be present in areas immediately adjacent to or in harvest units. The boundaries of these sites are identified on the ground by white painted slashes. Contractor shall protect these sites by avoidance. No operations shall be permitted within the white painted boundaries. Should timber be accidentally felled into the protected sites, Contractor shall not attempt to remove the felled timber and shall immediately contact the Department representative to determine if the timber can be removed without damage to the protected sites. In the event that Contractor's operations disturb or damage an area identified as needing special protection, the Contractor shall reimburse the Department for the full cost and expense of any evaluative and remedial measures undertaken by the Department in connection with such disturbance or damage. Such payment shall not relieve Contractor from civil or criminal liability under applicable law.

(d) The following Best Management Practices (BMP's) will be followed as a minimum on this property:

(1) The Contractor shall obtain approval from the Department representatives as to the location of all essential temporary roads, stream crossings, log landings, and main skid trails before the arrival of road building or harvesting equipment. A reasonable effort shall be made to minimize soil erosion, to avoid interfering with the natural drainage of the site, and to locate log landings and roads outside of Streamside Management Zones (SMZ's) unless otherwise approved in writing by the Department representative. The Department shall be consulted about the location of roads and stream crossings that will be kept open and maintained by the Department after the sale is completed.

(2) Trees shall be felled and skidded away from water as much as possible. Any tops or other logging debris dropped into the water or channel shall be removed immediately. However, organic debris in the water prior to harvest shall not be removed from the stream. Heavy equipment shall not be operated within the SMZ (or within 35 feet of any water of the State\US if SMZ's are not specifically delineated) unless the forest floor and understory vegetation can be protected from unnecessary damage as approved in writing by the Department representative. Wheel ruts shall be filled in with soil.

(3) The crossing of streams by temporary roads or skid trails shall be avoided if there are any other reasonable alternatives. When it is essential and as approved in writing by the Department representative to cross a water of the State/US, a minimal number of crossings shall be located and constructed to provide the least damage possible. At no time shall a perennial or intermittent stream be crossed without providing a way for normal passage of water or aquatic animals within the channel. All temporary crossings shall be removed in their entirety and the stream banks restored. All permanent stream crossings shall be stable during and immediately after use.

(4) Existing woods roads shall be used if erosion and siltation from the roads can be adequately controlled. **Promptly upon completion of logging, water bars and turnouts are to be installed where needed on these existing roads to prevent soil displacement.** New temporary roads shall be laid out and constructed to

avoid problem areas, to minimize soil erosion, and to avoid impairment of the reach, flow, or circulation of waters of the State/US. Adequate drainage shall be provided to help reduce erosion and to divert sediment where it can be filtered out over the forest floor rather than into waters. **The Contractor shall close out temporary roads, including installing water bars as needed to prevent soil loss, after the harvest operation is over.** At the discretion of the Department representative the Contractor may be required to seed and mulch exposed soil upon discontinued use if there is a possibility of significant erosion and/or water quality degradation.

(5) The Contractor shall keep log landings as few and small as possible. **Any wildlife openings located within the sale area boundaries are not to be used for decking timber or log landings, however, these areas may be used for turnaround spots for trucks.** Log landings shall be stabilized upon completion of use. Loading of log trucks is not permitted on paved or graded roads unless otherwise approved in writing by the Department representative. Skidding shall be done so as to avoid disrupting natural drainage, to minimize soil erosion, and to minimize adverse impacts on future soil productivity. Skidding shall never be done within any perennial, intermittent, or ephemeral stream channel, whether wet or dry. **Skid trails on steep slopes shall have occasional breaks in grade, and upon completion of use, shall be water-barred as needed to prevent soil loss.** Distance between water bars shall vary with slope grade, with intervals shortening as slope increases. At the discretion of the Department representative the Contractor may be required to seed and mulch exposed soil upon discontinued use if there is a possibility of significant erosion and/or water quality degradation.

(6) The Contractor shall remove all litter associated with the harvest operation, such as lunch or drink containers, oil containers, or other discarded equipment or materials. The Contractor will be fined \$15.00 for each piece of litter found on the harvesting site that can be attributed to harvesting activities. The Contractor shall carry used lubricants or other mechanical fluids off the harvesting site and dispose of them in accordance with state law. The Contractor will be assessed a fine of \$200.00 for each site where hydraulic fluid, oil, or fuel have been dumped directly onto the ground.

(7) The Contractor agrees to conduct its operations only during proper weather conditions to avoid unnecessary soil disturbances. If, during wet weather conditions, logging operations are determined to have an adverse impact upon the timber sale area or adjoining areas, the Department may at its discretion halt logging operations until such time as conditions become more favorable to protecting the site.

**(8) The Contractor is solely responsible for maintaining Forest Services roads and making them serviceable prior to logging, as approved by the Department representative. Rutted roads will be back bladed by Contractor upon completion of sale and/or when requested by the Department representative during the sale. The Department retains the right to close down the timber sale operations in inclement weather if damage to roads is deemed to be too severe. The Contractor may be required to spot place appropriate sized rock on Forest Service roads to facilitate use if it is deemed needed for continued use by the Department representative.**

IV. This contract shall not become effective until it has been accepted by the Department and the Contractor has furnished the Department with a performance bond in the amount of **\$5,000.00** which bond shall be for the faithful performance of all the terms and conditions of this contract. Said bond will be with a reputable bonding company authorized to do business in the State of Alabama, or the Contractor may, at its option, furnish the Department a cash bond in lieu thereof, or provide the bond in the form of a line of credit at a bank authorized to do business in the State of Alabama. If the Contractor chooses to furnish a cash bond, said bond shall be in the form of a certified check payable to the Alabama Forestry Commission. Said performance bond shall be returned to the Contractor in full at the termination of this contract upon satisfactory compliance with contractual terms or the Department may return a residual amount, if any, after deducting any penalty payments as stipulated herein.

WHEREAS, the Department reserves the right to cancel this Contract, upon failure of contractor to comply with any and all conditions hereof. Said cancellation shall be effective upon seven (7) calendar days' written notice, or at the Department's option, immediately, upon oral notification.

WHEREAS, contractor is an independent contractor, and as such, is not entitled to benefits of the state

merit system act for any work done through the Department under the terms of this contract.

WHEREAS, under no circumstances shall the commitments by the Department contained herein constitute a debt of the State of Alabama as prohibited by Section 213 of the Constitution of Alabama 1901 as amended by Amendment 26.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the \_\_\_\_ day of \_\_\_\_\_, 2020.

APPROVED:

STATE OF ALABAMA  
ALABAMA FORESTRY COMMISSION

\_\_\_\_\_  
RICK OATES  
STATE FORESTER

APPROVED AS TO FORM:

\_\_\_\_\_  
SCOTT L. ROUSE  
GENERAL COUNSEL  
ALABAMA FORESTRY COMMISSION

XXXXXXXXXXXXXXXXXX.  
CONTRACTOR  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

STATE OF ALABAMA )  
COUNTY OF \_\_\_\_\_ )

I, the undersigned authority, a Notary Public in and for said State and County hereby certify that \_\_\_\_\_ whose name as \_\_\_\_\_ of \_\_\_\_\_ of the State of Alabama is signed to the foregoing and who is known to me, acknowledged before me on this day, that being informed of the contents of the within instrument, he, in his capacity as such \_\_\_\_\_ of \_\_\_\_\_ of the State of Alabama, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_

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STATE OF ALABAMA )  
COUNTY OF MONTGOMERY )

I, the undersigned authority, a Notary Public in and for said State and County hereby certify that RICK OATES, whose name as State Forester of the Alabama Forestry Commission, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day, that being informed of the contents of the within instrument, he, in his official capacity as State Forester of the Alabama Forestry Commission, executed the same voluntarily on the day the same bears date.

Given under my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

Notary Public \_\_\_\_\_

My Commission Expires \_\_\_\_\_