

IOWA DEPARTMENT OF NATURAL RESOURCES
CONTRACT NUMBER (number)

Between

IOWA DEPARTMENT OF NATURAL RESOURCES
And
(Name of Buyer)

IN WITNESS THEREOF, the parties hereto have executed this Contract on the day and year last specified below.

DEPARTMENT OF NATURAL RESOURCES

By: _____
(DNR signatory)

Date: _____

(Name of Buyer)

By: _____
(Name and Title)

Date: _____

This Contract is entered into between the Iowa Department of Natural Resources (DNR) and [\(name of Buyer\)](#) (Timber Buyer). The parties agree as follows:

Section 1 IDENTITY OF THE PARTIES

1.1 Parties. DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9th Street, Des Moines, Iowa 50319.

[\(Timber Buyer\)](#) is bonded in the State of Iowa in accordance with section 456A.36 of the Code of Iowa. Timber Buyer's address is: [\(address\)](#)

1.2 Project Managers. Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

DNR Project Manager: [\(Name\)](#)
[\(Title or Forest\)](#)
Bureau of Forestry
[\(Address\)](#)
[\(Phone\)](#)
[\(Fax\)](#)
[\(Email\)](#)

Timber Buyer Project Manager: [\(Name of Buyer\)](#)
[\(Company Name\)](#)
[\(Address\)](#)
[\(Phone\)](#)
[\(Fax\)](#)
[\(Email\)](#)

Section 2 STATEMENT OF PURPOSE

2.1 Statutory Authority. The DNR enters this Contract based on its statutory authority in Iowa Code 456A.36 to enter into agreements with persons buying state timber resources for sawing into lumber for processing or resale.

2.2 Purpose. Timber Buyer will cut and remove timber in the amount of approximately [\(number\)](#) board feet (Scribner) in [\(number\)](#) trees marked with [\(color\)](#) paint on their boles. The timber is located on a tract of land known as the [\(Forest or Area\)](#), [\(Name of County\)](#) County, Iowa.

Section 3 DURATION OF CONTRACT

3.1 Term of Contract. The term of this Contract shall be November 6, 2009 through November 6, 2011 unless terminated earlier in accordance with the Termination section of this Contract.

3.2 Commission Approval. The Natural Resource Commission has approved this Contract, as decided at its regular meeting on the [\(number\)](#) day of [\(month\)](#), [\(year\)](#), and as shown in the minutes thereof **OR** is not required to approve this agreement.

3.3 Extension. DNR shall have the sole option to extend this Contract for subsequent periods by executing a signed amendment prior to the expiration of this Contract. Reasons for extending the Contract may include:

1. Delays caused by DNR; or

2. Other reasons beyond the control of the Timber Buyer which in DNR’s judgment would justify an extension, such as periods of soft ground, etc.

Section 4 DEFINITIONS

Except as otherwise identified through the use of capital letters, this Contract shall use no additional definitions.

Section 5 STATEMENT OF WORK

5.1 Statement of Work. Timber Buyer shall perform the following tasks. Timber Buyer shall complete its obligations under this Contract as described below:

Tasks	Interval/Date of Completion
<p>1. Make full payment of \$ (amount) upon signing this Contract. No cutting will be permitted until this Contract has been signed and full payment made to DNR.</p> <p>2. Cut and remove all trees marked with (color) paint by DNR’s Project Manager with the exception of cull trees marked with an (color) “X”. Cull trees may be left or removed at the discretion of Timber Buyer.</p> <p>a. Timber Buyer shall avoid any unnecessary damage to trees that are not marked for cutting.</p> <p>b. Cutting is permitted only during the period of August 1 through March 31 unless otherwise authorized by DNR’s Project Manager. Logging or hauling will also not be allowed during the December shotgun deer seasons. It is the responsibility of Timber Buyer to obtain permission from DNR’s Project Manager prior to working in the area.</p> <p>c. Iowa Forestry Best Management Practices must be followed. An Iowa Forestry Best Management Practices Guide is available online at http://www.iowadnr.gov/forestry/bmps.html. Streams, roads and trails shall remain free of logging debris.</p> <p>d. Motor vehicles and logging equipment shall be operated only in designated areas. All logs shall be skid on designated trails, and decked and loaded in designated areas. All skid trails and decking areas shall be returned to satisfactory condition by Timber Buyer once the operation is complete.</p>	<p>Upon Execution of Contract</p> <p>(Completion Date)</p>

5.2 Stop Services. In addition to its other remedies described herein, DNR shall have the right at any time during the Contract term to direct the services of Timber Buyer fully or partially

suspended or stopped, if Timber Buyer fails to comply with the requirements in this Contract. DNR shall give Contractor written notice of a stop work directive. DNR shall provide to Timber Buyer the reasons for the stop work directive. An action on Timber Buyer's bond for forfeiture may be commenced pursuant to Section 456A.36, Code of Iowa.

5.3 Industry Standards. Services rendered pursuant to this Contract shall be performed in a professional and workmanlike manner in accordance with the terms of this Contract and the standards of performance considered generally acceptable in the relevant industry for similar tasks and projects. In the absence of a detailed specification for the performance of any portion of this Contract, the parties agree that the applicable specification shall be the generally accepted industry standard.

5.4 Final Notice of Completion. If DNR concludes, in its sole discretion, that all the Tasks required by the Statement of Work have been completed in accordance with this Contract, then DNR shall issue a written Final Notice of Completion.

5.5 Incorporation of Documents. The following documents, and any amendments thereto existing on the date this Contract is signed by DNR, are incorporated into this Contract by this reference: (1) the Notice of Timber for Sale (Notice) issued on (date issued) and (2) the Timber Buyer's Proposal of (proposal date) submitted in response to the Notice.

5.6 Preference. In the case of any inconsistency or conflict between the provisions of this document (including all related schedules and Statements of Work), the Notice or Timber Buyer's Proposal, the inconsistency or conflict shall be resolved as follows: first, by giving preference to the provisions of this document (including any Statements of Work); second, by giving preference to the provisions of the Proposal; and third, by giving preference to the provisions of the Notice.

Section 6 MONITORING AND REVIEW

6.1 Performance. Timber Buyer shall complete its obligations under this Contract at the intervals or by the dates described in Section 5.1.

6.2 Review Meetings. The DNR may request a meeting with Timber Buyer for the purposes of reviewing work under the Contract at any time during the term of this Contract. Timber Buyer shall make every effort to attend such a meeting and address the issues presented at the meeting.

6.3 DNR right to review and observe. DNR shall have the right to review and observe, at any time, completed work or work in progress. Timber Buyer shall allow the State of Iowa or DNR, to inspect the premises and records of the Timber Buyer for the purpose of monitoring and evaluating performance of this Contract.

6.4 Nonperformance. Failure for Timber Buyer to perform its obligations pursuant to Section 6 of this Contract shall constitute material breach of this Contract by DNR and shall be grounds for DNR to immediately terminate this Contract for cause. Additional sanctions are set out in Section 456A.36, Code of Iowa.

Section 7 PAYMENT

7.1 Payment. Timber Buyer shall make full payment of \$ (amount) upon signing this Contract. No cutting of timber will be permitted until this Contract has been signed and full payment made to DNR.

Section 8 SURETY BOND

8.1 Surety Bond. Timber Buyer shall have on file with the State of Iowa a bond meeting the requirements of Section 456A.36 of the Code of Iowa and Chapter 571-72 of the Iowa

Administrative Code. DNR may bring action on this bond in accordance with Section 456A.36 of the Code of Iowa.

Section 9 LIABILITY INSURANCE

9.1 Required Insurance. Timber Buyer shall carry appropriate liability insurance throughout the effective duration of this Contract.

9.2 Insurance Coverage. The liability insurance shall be written by an insurance company (or companies) qualified to do business in Iowa. The minimum coverage provided by such insurance shall be:

Bodily injury: \$100,000 per person, \$300,000 per accident
Property damage: \$50,000 per accident, \$100,000 per aggregate

9.3 Proof of Insurance. Timber Buyer shall provide to DNR, upon signing this Contract, a statement giving the name and address of Timber Buyer's insurance company providing the above coverage.

Section 10 GENERAL CONDITIONS

10.1 Self-Insurance and No Indemnity by the State of Iowa

Pursuant to Iowa Code chapter 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this Contract. No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this Contract. Further, according to the provisions of the Constitution of the State of Iowa, Article VII, Section 1, the State of Iowa shall not indemnify any contractor.

10.2 Compliance with Laws

According to the provisions of 11 Iowa Administrative Code 107.4(4)(c), the parties agree to comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when acting under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment. The parties also shall comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract.

10.3 Termination

Pursuant to the provisions of 11 Iowa Administrative Code 107.4(4)(f), the parties agree to the following termination provisions.

Immediate Termination by DNR. DNR may terminate this Contract for any of the following reasons effective immediately without advance notice and without penalty:

- o DNR determines that the actions, or failure to act, of Timber Buyer, and its agents and employees have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;
- o Timber Buyer furnished any statement, representation or certification in connection with this Contract or Notice which is materially false, deceptive, incorrect or incomplete.

Termination for Cause. The occurrence of any one or more of the following events shall constitute cause for DNR to declare Timber Buyer in default of its obligations under this Contract.

- o Timber Buyer fails to perform, to DNR's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Contractor;

- DNR determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;
- Timber Buyer fails to make substantial and timely progress toward performance of the Contract;
- Timber Buyer becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; Timber Buyer terminates or suspends its business; or DNR reasonably believes that Timber Buyer has become insolvent or unable to fulfill its obligations consistent with applicable federal or state law;
- Timber Buyer has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;
- Timber Buyer has engaged in conduct that has or may expose the State or DNR to liability, as determined in DNR's sole discretion; or
- Timber Buyer fails to comply with any of the Task Milestone dates contained in this Contract.

Notice of Default. If there is a default event caused by Timber Buyer, DNR shall provide written notice to Timber Buyer requesting that the breach or noncompliance be remedied within the period of time specified in DNR's written notice to Timber Buyer. If the breach or noncompliance is not remedied by the date of the written notice, DNR may either:

- Immediately terminate the Contract without additional written notice; or,
- Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

Remedies of Timber Buyer in Event of Termination by DNR. Following 30 days written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to Timber Buyer. Following termination upon notice, Timber Buyer shall be entitled to a refund for uncut timber. Refund shall only be made upon proper documentation. This provision in no way limits the remedies available to DNR under this Contract in the event of termination. However, DNR shall not be liable for any of the following costs:

- The payment of unemployment compensation to Timber Buyer's employees;
- The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;
- Any costs incurred by Timber Buyer, including, but not limited to, startup costs, overhead or other costs not directly associated with the performance of the Contract;
- Any taxes that may be owed by Timber Buyer not directly in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

Timber Buyer's Termination Duties. Timber Buyer upon receipt of notice of termination or upon request of DNR, shall:

- Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within 30 days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, and conclusions resulting there from, any other matters DNR may require.
- Immediately cease using and return to DNR any personal property or materials, whether tangible or intangible, provided by DNR to the Contractor.

- Comply with DNR's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.
- Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

10.4 Independent Contractor

According to the provisions of 11 Iowa Administrative Code 107.4(4)(h), the parties agree that the status of Timber Buyer shall be that of an independent contractor. Timber Buyer, and its employees and agents performing under this Contract are not employees or agents of the State of Iowa or any agency, division or department of the state. Neither Timber Buyer nor its employees shall be considered employees of DNR or the State of Iowa for federal or state tax purposes. DNR will not withhold taxes on behalf of Timber Buyer. Timber Buyer shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

10.5 Choice of Law and Forum

This Contract is governed by the laws of the State of Iowa, and state and federal courts in Iowa shall have exclusive jurisdiction over any claim arising from or related to this Contract.