



SUSTAINABLE
FORESTRY
INITIATIVE
SFI-01837



SANDY POINT STATE FOREST
PINE THINNING 2022

TIMBER SALE CONTRACT (Pine Plantation Thinning)

THIS CONTRACT, made and entered into this 7th day of September, 2022, by and between the Commonwealth of Virginia, Department of Forestry hereinafter called the **Department**, and _____, of _____, **Virginia**, _____ hereinafter called the **Purchaser**.

WITNESSETH THAT:

ARTICLE I

- (1) The Department agrees to sell and the Purchaser agrees to buy all the standing timber (mostly loblolly pine) designated for harvest within 132.2 acres of pine plantations prescribed to receive thinning. Crop trees will consist of the healthiest, tallest, largest and best formed trees. All merchantable timber not selected as crop trees is scheduled for cutting under this contract and shall be utilized to acceptable merchantable limits specified in Article III below. See attached map for thinning location and consult Virginia highway map. The volume is estimated to be approximately 10,614.7 tons of pine pulpwood and 2,141.2 tons pine sawtimber. Stumpage payment shall be rendered on the actual and documented volume removed. **Stumpage checks made payable to the Treasurer of Virginia, Department of Forestry** will be submitted once weekly. Documentation of loads (wt. or volume records) will accompany all stumpage checks. The timber sold in this thinning consists chiefly of loblolly pine.
- (2) The Department guarantees the title to said timber and to defend it against any and all claims for taxes, mortgages or other legitimate encumbrances at its own expense. However, title to all forest products shall remain with the Department until payment has been made in full based on measured or weighed volume for forest products removed on a weekly basis.
- (3) The Department hereby expressly grants to the Purchaser the right of ingress and egress across and upon the sale area.

ARTICLE II

- (1) The Purchaser agrees to pay the Department a price of \$_____ **per ton** for pine pulpwood, \$_____ **per ton** for pine sawtimber, 50% of delivered rate for all hardwood sawtimber and a price of **\$3.00 per ton** for hardwood pulpwood timber harvested under this contract. Payments for purchased timber shall be on the basis of actual volume removed as evidenced by individual load tickets, mill tickets, or similar documentation. Volume documentation will be submitted weekly throughout the entirety of the harvest. A down payment of **\$10,000** is due and payable within ten (10) business days from the date hereof. The down payment will be applied as a stumpage payment near the end of harvesting operations when the expected remaining stumpage value is equal to the amount of the down payment. Stumpage payments shall be made in full, by check payable to "**Treasurer of Virginia, Department of Forestry**", and submitted to the Forest Manager weekly with the corresponding volume removal documentation until the down payment is applied. In the event the down payment exceeds the remaining stumpage balance, a refund will be issued to the Purchaser. In the event the down payment is less than the remaining stumpage value, the Purchaser will continue weekly stumpage payments and load documentation until the full balance is received. No timber shall be cut, nor shall this contract be deemed to be in effect, until the down payment has been made in full.
- (2) **The Purchaser agrees to the deposit of two thousand five hundred dollars (\$2,500.00) made payable to the "Treasurer of Virginia, Department of Forestry" accompanying the Purchaser's executed contract and will serve as a performance bond for the duration of this contract. The Purchaser understands that this performance bond will refund upon the successful completion of the harvesting provisions of this contract.** Furthermore, understand that forfeiture of this deposit/bond can occur for any breach or noncompliance of same provisions or termination of this Contract prior to its expiration. Performance bonds shall be returned to the Purchaser within thirty (30) business days after

the expiration or sooner termination of this Contract. In the event Department's actual loss or damage exceeds the balance of the "deposit" being held, Purchaser agrees to reimburse the Department promptly for any difference, and nothing in this provision shall limit in any way the Department's right to pursue its appropriate remedies in law or equity.

- (3) The boundaries, stream courses, sensitive areas or other equipment exclusion zones (if present) of the sale areas are shown on the attached map (Attachment B) which is hereby incorporated into this contract. Sale area boundaries are marked with pink flagging. Approximate acreages are stated by sale area or unit but not guaranteed.
- (4) The Purchaser agrees to notify the Cumberland State Forest office at (804) 492-4121 or Dennis Gaston, Forest Manager, at (804) 840-5493 **five (5)** business days prior to the commencement of harvest activities.
- (5) The Purchaser shall designate in writing, unless otherwise agreed to, a representative authorized to receive notices regarding performance under this contract and take related action. Such designation should occur prior to the actual harvest of any timber.
- (6) Unless a written extension of time is granted by the Department, or barring forfeiture of cutting rights for noncompliance of contract provisions, all stumpage sold hereunder shall be removed on or before **January 31, 2024**.
- (7) The Department reserves the right to inspect any and all contractors and subcontractors operations at any time.
- (8) Independent Contractor: The Purchaser, their employees and agents are not to be, at any time, considered servants, agents, or employees of the Commonwealth of Virginia, nor of any department or division thereof, but instead are considered to be independent contractors.
- (9) The Purchaser also agrees to comply with all laws, rules and/or regulations applicable to the safe performance of such work, including without limiting the generality of the foregoing, Public Law 91-596, Title, "Occupational Safety and Health Act of 1970."

ARTICLE III

- (1) Timber harvested hereunder shall be felled, skidded and concentrated in such manner as to cause the least possible waste and a minimum of damage to designated crop trees, streams, creeks, springs and soils.
 - (a) Excessive damage to crop trees (more than 10% of residual stems with bark damage) as a result of the harvest operation will be assessed a penalty of three times the stumpage rate of this contract.
 - (b) The Purchaser agrees that the logger performing the thinning operation will complete a timber harvest contract removal record provided by the Department of Forestry. This form will serve to record the date, product and destination of each load. This will be documented before the load leaves the tract. This record will be submitted to the State Forest Manager or their representative on a weekly basis.
 - (c) The pine plantations scheduled for thinning under this contract will be thinned to a basal area of 65 square feet.
 - (d) Other than crop trees, all timber shall be cut and utilized to the greatest extent feasible, practical and commercially marketable, unless otherwise specified by the Department. Changes in merchantability standards, markets, and harvesting conditions that have influence on provisions of this contract will be demonstrated to the Department. No changes in contract standards will be in effect until investigated, documented and authorized by an agent of the Department.
 - (e) Stumps shall be cut in such manner as to cause the least possible waste and not higher than six inches above ground level, except on misshapen or defective trees where cutting below six inches is not practical.
 - (f) To improve post-harvest wildlife habitat, standing dead trees shall be left, if safe to do so.
 - (g) All trees sold hereunder shall be utilized as low in diameter in the tops as may be practical.

- (h) All merchantable trees are to be cut within the boundaries of the designated sale area(s), unless stated otherwise, including any downed trees.
 - (i) All trees shall be felled within the cutting boundaries. Logging debris accumulated outside the thinning area shall be pulled back within the sale area and dispersed unless otherwise specified by the Forest Manager. Logging slash will be removed from the major forest roads.
 - (j) Extreme caution will be requested in felling and skidding any marked trees from the reserve areas to be thinned (if applicable – see attached map). This is to minimize damage to the residual growing stock, which will be retained.
 - (k) No trees, laps or logging debris are to be left in roads, open areas, streams, creeks, vernal pools, drainage ditches or springs.
 - (l) The Purchaser and the Department shall mutually lay out the designated system of temporary roads (if needed) and decking locations over which the timber sold hereunder shall be removed and all skidding activities will be concentrated to flow into these temporary roads or decks. Decking along existing (non-State or locality) permanent roads is allowed, but the road must remain open at all times, and no skidding allowed on any State, Locality, or property with permanent/paved roads.
 - (m) The Department may require the Purchaser to suspend logging activities during prolonged periods of inclement weather, as these activities could result in detrimental consequences to forest soils. The Purchaser may be granted a contract extension, if weather related delays become significant.
 - (n) All prehistoric caves, sensitive areas, endangered species, and historic areas excluded from ground disturbance when identified. Any discovery by the purchaser of additional areas, resources, species, or members of species needing special protection promptly reported to the Department and the purchaser shall immediately suspend operations within the area discovered. Any trees not allowed felled into any areas identified. If additional areas needing special measures for protection are discovered after the contract is signed those measures will/may be revised or newly prescribed in which case timber volumes and values may be adjusted based upon the timber contracted values and volumes by product. Any discovery by the Purchaser of additional areas, resources, species, or members of species needing special protection shall be promptly reported to the Department.
 - (o) The Purchaser shall use reasonable efforts to not leave trash, bottles, cans, or other debris on the sale area during or after harvesting, In the event Purchaser leaves such debris, the Department shall provide written notice of the condition and allow the Purchaser fifteen (15) business days from the date of notification to rectify the area. If Purchaser declines or fails to remove such debris in a timely manner, the Department shall have the right to hire a contractor to remove such debris at the Purchaser's sole cost and expense.
 - (p) Fences damaged (if any) by the Purchaser's operations repaired including any fence section removed to facilitate the removal of trees harvested. No piling of slash adjacent to fences or property lines allowed.
 - (q) In the event the included timber to which the Department holds title to is destroyed, the Department shall make an appraisal to determine for each product/species the difference between the appraised value immediately prior to the loss and the appraised value after the loss. The Purchaser shall not be obligated to accept and pay for timber that is destroyed or damaged except through written agreement. Damages to timber would include events such as fire, wind, flood, or similar cause but does not include damage caused by the Purchaser's operations or those of any subcontractor.
- (2) Timber harvested by the Purchaser from standing trees shall be removed in such a manner as to cause the least possible damage to the existing main haul roads and no public hazard at entrance ways to primary and secondary Virginia highways.
- (a) Access to the thinning areas are adequate and main hauls will be confined to this system for all personnel, materials and logging equipment including transport trucks necessary for the removal of said timber; the right to designate or approve the location of any new road across State Forest land is specifically reserved.

- (b) All such new roads with the exception of skidding trails constructed by the Purchaser and all existing roads within the timber sale area, shall be left in passable condition (usable by pickup truck) during and upon completion of this contract. Roads shall be left in the same or better condition as prior to harvesting.
 - (c) During and upon completion of the harvest operation, the Purchaser shall comply with the Water Quality and BMP standards listed in the "Virginia's Forestry Best Management Practices for Water Quality, Fifth Edition" issued by the Virginia Department of Forestry. The Department reserves specifically the right to request corrective action of the Purchaser in maintenance and stabilization of forest roads, trails, culvert pipes, water bars, side ditches, lead-off ditches, decks, skid trails and streams where destructive action of the Purchaser has contributed to a BMP or Water Quality problem.
 - (d) *The Purchaser shall comply with all Virginia Department of Transportation regulations and obtain all required permits for temporary logging entrances.* The Purchaser shall guard against the unnecessary transfer of mud and debris by vehicle onto the public highway system of the Commonwealth of Virginia, whereby the same poses a threat to public safety. Furthermore, the Purchaser assumes the responsibility for the preventive and/or corrective action necessary to eliminate this source of hazard should the problem develop.
 - (e) The Purchaser will assume the responsibility for stabilizing against erosion on used forest roads and trails according to the Water Quality BMP Handbook.
 - (f) The location of any landings, logging deck areas and stream crossings will be approved by the Department prior to development.
- (3) All logging operators on State Forest lands must be trained and certified under their respective state's professional logger program such as Virginia's SHARP Logger Program.
- (4) The Purchaser agrees to exercise the utmost care and caution to prevent the inception and spread of forest fires on the area for sale and on adjoining areas. The Purchaser further agrees to observe and comply with all the forest fire laws of the State of Virginia which may be applicable. The Purchaser will be held liable for costs associated with controlling any fire caused by the harvest operation or for fire damage to residual trees and adjacent forest stands. Purchaser also agrees to report all fires immediately. Effective muffler systems installed by the manufacturer as standard equipment shall be maintained on exhausts of trucks, power saws and other internal combustion engines used in the Purchaser's Operations. When local fire weather conditions are becoming critical, the Purchaser shall keep with gasoline chain saws at all times 1) a fire extinguisher (A:B:C Dry Chemical, 5 lb. min.); and 2) a Standard Grade Round point Long-handled shovel (48" min.), and/or a Standard Grade Long-handled Fire Rake (48" min.) and take precautionary measures requested by the Department.
- (5) If Purchaser maintains storage for oil, gas, or oil products on the harvest area, Purchaser shall take appropriate preventive measures to ensure that any spill of such oil, gas, or oil products does not enter any stream or other water of the Commonwealth. Purchaser shall notify the Department's Forest Manager of all releases of hazardous substances on or in the vicinity of the harvest area caused by the Purchaser and/or the Purchaser's employees, agents, subcontractors, or their employees or agents, directly or indirectly, as a result of Purchaser's operations.
- (6) So far as practicable, the Purchaser shall protect specified roads and other improvements (such as State or Private roads, trails, telephone lines, ditches, fences, and culverts), along with any improvements not owned by the Department. Purchaser shall protect all known survey monuments, witness corners, reference monuments, signs, and bearing trees. Any damage to specified roads or other improvements shall be repaired and/or replaced by the Purchaser and at their cost.

ARTICLE IV

- (1) The Department reserves the right to postpone timber removal under terms of this contract for gross noncompliance with the agreed upon provisions herein.
- (2) Applicable Laws and Courts: This resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the Purchaser are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). The Purchaser shall comply with all applicable federal, state and local laws, rules and regulations.
- (3) MINIMUM INSURANCE COVERAGE AND LIMITS REQUIRED BY PURCHASER OR THEIR CONTRACTORS:
 - a) Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three or more employees, to include the employer. Purchasers or their contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the *Code of Virginia* during the course of the contract shall be in noncompliance with the contract.
 - b) Employer's Liability - \$100,000.
 - c) Commercial General Liability - \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
 - d) Automobile Liability - \$1,000,000 combined single limit. (Required only if a motor vehicle not owned by the Commonwealth is to be used in the contract. Purchaser must assure that the required coverage is maintained by them or its Contractor (or third party owner of such motor vehicle.)

ARTICLE V

- (1) The Purchaser's signature on the face of this contract certifies that this contract is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a bid for the same material and is in all respects, fair and without collusion or fraud. The Purchaser understands that collusive bidding is a violation of the Virginia Governmental Fraud Act and federal law and can result in fines, prison sentences, and civil damage awards. The Purchaser agrees to abide by all conditions of this contract. The Purchaser understands that collusive bidding is a violation of the Virginia Governmental Fraud Act – Section 18.2-498.1 and federal law and can result in fines, prison sentences, and civil damage awards.
- (2) The Purchaser, and all solicitations and advertisements for employees placed by or on behalf of the Purchaser, will state that such Purchaser is an equal opportunity employer.
 - (a) The Purchaser will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin, except where religion, sex or national origin is a bonafide occupational qualification reasonably necessary to the normal operation of the Purchaser.
 - (b) The Purchaser agrees to post in conspicuous places, available to employees and applicants for employment, notice setting forth the provisions of this nondiscrimination clause.
- (3) DRUG FREE WORKPLACE: The Purchaser acknowledges and certifies that they understand that the following acts by the Purchaser, their employees, and/or agents performing services on state property are prohibited:
 - (a) The unlawful manufacture, distribution, dispensing, possession or use of alcohol or other drugs; and

- (b) Any impairment or incapacitation from the use of alcohol or other drugs (except the use of drugs for legitimate medical purposes).

The Purchaser further acknowledges and certifies that they understand that a violation of these prohibitions constitutes a breach of contract and may result in default action being taken by the Commonwealth in addition to any criminal penalties that may result from such conduct.

- (4) The Purchaser certifies and warrants that by their signature on the face of this contract they have neither offered nor received any kickbacks from any other bidder in connection with their bid on this solicitation. A kickback is defined as an inducement for the award of a contract, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or greater value is exchanged. Further, no person shall demand or receive any payment, loan subscription, advance, deposit of money, services or anything of value in return for an agreement not to compete on a public contract.
- (5) No Purchaser shall confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.
- (6) The required deposit/performance bond shall protect the Department in event the Purchaser defaults before a contract executed. The Department will hold the deposit until the harvest is complete and the Purchaser has fulfilled all contracted provisions.
- (7) Indemnification: Purchaser agrees to indemnify, defend and hold harmless the Commonwealth of Virginia, its agencies, its officers, agents, and employees from any claims, damages and actions of any kind or nature, by Purchaser or by third parties, whether at law or in equity, arising from or caused by the Purchaser's or its' Contractor's performance under any contract awarded hereunder, included but limited to claims arising as the result of the use of materials, goods, equipment or services furnished by Purchaser thereunder
- (8) This contract may not be assigned, sublet or transferred without the written consent of the Department.

PURCHASER

TELEPHONE NUMBER

Approved at Salem, VA under the above conditions _____, 20__

STATE LANDS MANAGER

ATTACHMENT A
STANDS TO BE THINNED

Unit #	Stand #	Type	Age	Acres
02	005	Loblolly Pine	23	14.0
03	019	Loblolly Pine	23	11.0
04	009	Loblolly Pine	29	11.4
01	010	Loblolly Pine	31	11.1
01	011	Loblolly Pine	31	5.0
01	012	Loblolly Pine	31	21.3
02	008	Loblolly Pine	33	22.8
02	011	Loblolly Pine	31	1.9
02	012	Loblolly Pine	31	2.8
02	013	Loblolly Pine	33	30.5
Total				132.2

ATTACHMENT B SALE AREA MAP

Sandy Point State Forest

Pine Thinning Harvest, 2022

