

Contracts for Woodland Owners

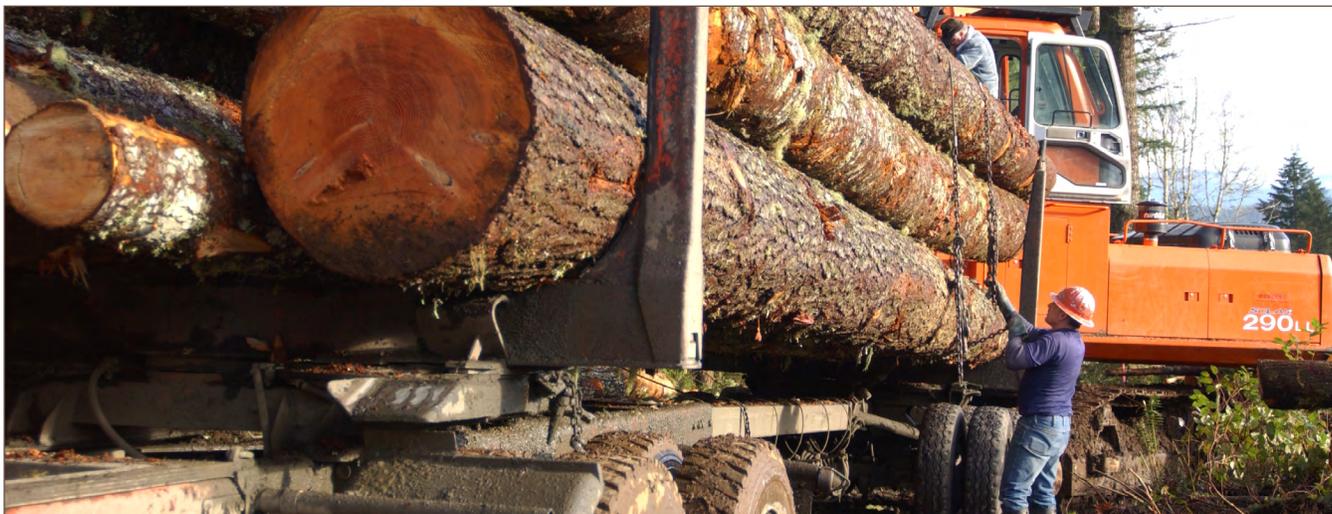


Photo: Lynn Ketchum, © OSU

EC 1192 • Revised July 2014

Steve Bowers

Contents

What is a Contract?	1
The Importance of Written Contracts	2
Contract Violations	2
Laws to Consider	3
How to Develop a Satisfactory Contract.....	4
For More Information.....	4
Appendix 1: Sample Timber Sale Agreement	8
Appendix 2: Sample Logging Contract	13
Appendix 3: Sample Reciprocal Easement.....	17
Appendix 4: Sample Forestry Road Easement.....	18
Appendix 5: Sample Road Construction and Improvement Contract.....	21
Appendix 6: Sample Tree Planting Contract.....	24
Appendix 7: Sample Herbicide Spraying Contract.....	30
Appendix 8: Sample Pre-Commercial Thinning Contract	34

Without a properly written contract, owners of small woodlands may find themselves in situations resulting in costly and time-consuming attempts at personal negotiations and the possibility of court battles. To help avoid these complications, it's important to learn and understand the basic requirements of a well-written contract before becoming legally bound by a written contract or oral agreement.

This publication describes the basic principles of contract law as applied to woodland planting, growth, maintenance, and harvest; road construction, maintenance, and repair; and selling logs and timber. Several sample contracts are provided to help you apply these principles to make contracts, and contractual relationships, as efficient and effective as possible.

What is a Contract?

A **contract** is an agreement that:

1. Describes a promise or set of promises between two parties
2. Stipulates that performance of these promises is a duty
3. Provides for a remedy if one or both parties breaches (breaks) these promises

Four Basic Contract Requirements

Four basic elements are required for a valid contract:

1. **Agreement**—an offer by one party (the offeror) and an acceptance of the offer by the other party (the offeree)
2. **Capacity**—the legal competency to be a party to a contract
3. **Consideration**—the giving up of a legal right (the exchange of a promise for a promise in a bilateral contract or the exchange of a promise for an act in a unilateral contract)
4. **Legality of purpose**—meets local, state, and federal laws

Other Important Contract Terms

Any contract that contains the four basic elements—agreement, capacity, consideration, and legality—may be a valid, enforceable contract. But it may not be a complete contract. Other important elements may be needed for clarification to avoid misinterpretation during a sale or service. Table 1 lists some of these elements.

The elements of a contract will vary depending upon the nature of the sales transaction or the provided service. Some elements listed in Table 1 will not apply to specific contracts; other elements not listed may be essential. Table 1 is not a comprehensive list of all elements that may be, or need to be, included in an enforceable contract.

Experienced woodland owners and forestry consultants strongly recommend that parties forming a contract choose a lawyer or lawyers experienced in issues associated with the forest products industry to write a contract for the sale and purchase of forest products or for the hire of services.

You may find it helpful to consult friends or associates whose lawyers have written such contracts and satisfactorily demonstrated their experience in this area.

The cost of a well-written contract will vary depending on the complexity of the sale or service. Hiring a lawyer who already has the expertise to write a clear, concise contract may save you time, money, and a great amount of frustration.

The Importance of Written Contracts

In many, but not all, cases, contracts must be in writing to be **enforceable**. A written contract may be enforceable even if it does not contain all terms intended by the parties. If enough basic terms were written down and the party against whom it is being enforced signed it, the other party can enforce the contract in a court. Enforcement of an oral contract usually requires legal proceedings, which can be costly and time consuming.

All things considered, it's best to follow the general rule: Put your contract in writing!

Among contracts that must be in writing to be enforceable, three kinds apply to forestry transactions:

1. Contracts for the sale of real property or an interest in real property. **Real property** includes bare land and land along with property permanently fixed to the land, such as buildings. An **interest** in real property includes leases for land or buildings for more than a year, and easements.
2. Contracts that can't be performed within 1 year from the date of making the contract (not from the date of beginning of performance).
3. Contracts for the sale of goods for a total contract price of \$500 or more (for example, logs sold for a contract price of \$500 or more). In most states, including Oregon, standing timber to be cut by the buyer is classified as **goods** (not real property) in a timber sale contract without the land.

Contract Violations

Litigation

It's very important that a written contract be carefully drafted and clearly written. The objectives of each contract should be written in language as free of **legalese** (legal jargon) as possible, and the means for reaching the objectives should be clearly stated.

Sometimes, legalese is necessary because earlier court cases have clarified what particular legal terms or phrases mean, and using them is one way to avoid misinterpretation. If any part of the contract is not well written (for example, if it's ambiguous), and the dispute reaches the courts, it's usually interpreted against the party who drew it up.

After pursuing all other avenues, the injured party may file a lawsuit and ask the court for compensatory damages. Attorney fees usually aren't included in the award of court costs. An attorney fee may be added to the judgment if the contract provided that in case of a dispute, the party winning in court has the right to claim a reasonable attorney fee from the losing party. If there's no such clause and no later agreement on the matter, an attorney fee cannot be added to the judgment.

The court award is collected by finding *assets* owned by the losing party and legally taking them to pay the judgment. But a judgment doesn't guarantee payment. Some debtors do not have assets that are easy to find. And every debtor has the right to keep certain assets from a creditor. In Oregon, the assets a debtor may keep from a creditor include a stated amount for household furnishings, various personal items, and a number of other assets too numerous to mention here.

Alternatives to Litigation

If the parties to the contract agree, they can include a provision to use a procedure other than litigation to resolve disputes. Two of the most common alternatives are *arbitration* and *mediation*. There are significant differences between the two procedures, but both tend to be faster and less expensive than litigation. One possible disadvantage to using arbitration and mediation is that a legal *precedent* will not be set for use in the event of future litigation on the same or similar issues.

Many commercial arbitration and mediation services are available. Two well-known organizations provide both arbitration and mediation: the American Arbitration Association and the United States Arbitration and Mediation Association of Oregon (and other states).

Laws to Consider

Oregon Forest Practices Laws

Oregon statutes relating to forest practices cover many issues. The most important statutes are the *Oregon Forest Practices Act & Rules (FPAR)*. It's important that any parties involved in a contractual agreement know the requirements of the FPAR and be clear about their respective responsibilities. An understanding of the provisions of the FPAR can substantially influence not only the drafting of a contract but also the mutual satisfaction of all parties and, potentially, the legality of the contract.

Before beginning negotiations for a forest operation—harvesting timber, reforestation, pre-commercial thinning, or some other project—study the FPAR carefully and consult with a stewardship forester.

To obtain brochures describing the act, its requirements, and the rules used to enforce it, contact your local office of the *Oregon Department of Forestry (ODF)*. Local stewardship foresters are also excellent sources of information.

Other Laws

The FPAR and other Oregon laws are not the only laws you must consider when developing a contract. At any time, the state and federal governments may pass new laws or amend old laws that could affect your contract. For example, the Endangered Species Act may prohibit cutting of timber on parts of your land. You would need to consider these areas when developing a timber contract.

An experienced lawyer should be aware of these types of law changes and any effects they may have on contracts. In addition, local offices of the ODF and the Oregon Department of Fish and Wildlife generally have current information about applicable state and federal requirements for fish and wildlife habitat protection that extend beyond what is explicitly covered in the FPAR.

How to Develop a Satisfactory Contract

Hire an Experienced Adviser

If you are not experienced in writing contracts, you may need to hire an experienced consulting forester or legal advisor. Absentee woodland owners, in particular, should consider hiring experienced local consulting foresters to represent their interests in preparing an effective contract and supervising the operation to ensure fulfillment of contract terms.

Consulting foresters often have sample contracts that have worked well in similar situations for other woodland owners. An experienced consulting forester can also recommend lawyers who have experience writing forestry contracts for owners of small woodlands. You should have a lawyer review sample contracts from a consulting forester.

After selecting a lawyer, you can take several steps to reduce legal costs and still develop a good contract:

1. Before consulting your lawyer, list your desired objectives of the upcoming timber sale or service.
2. Next, list the key elements needed to accomplish each objective.
3. Review the list carefully with your lawyer. Add, subtract, or amend items as necessary.
4. After your lawyer finalizes the contract, review it carefully. Compare the contract with individual objectives and key elements, including those in Table I. Note any omitted or unclear points in the contract, and review these points with your lawyer.
5. Send the unsigned contract to the prospective buyer or contractor. After the other party returns it (perhaps with suggestions), review any suggestions with your lawyer and prepare the final document. Sign the contract and send it to the buyer or contractor for signature.

If you are performing repeated sales of timber or contracting for the same services on different occasions, a previous contract may be satisfactory. However, applicable laws as well as individual needs and objectives can change. Always review the objectives of the new sale or service and ensure the contract meets those needs.

Review Sample Contracts

Appendices 1–8 contain various sample contracts. Each includes many of the elements from Table 1. Can you think of other provisions that might be required in your particular circumstances? Is the wording of the included provisions adequate? These are questions to ask, and that you must answer, when you help draft a contract.

The sample contracts in this publication are intended for nonindustrial forest landowners to use as guides. Providing these samples in no way signifies endorsement or applicability for the use of any or all parts of any of the contracts. Rather, the intent is to show some of the terms you might expect to find in a contract for the sale of timber or management of forest property and help you become familiar with the language used in these types of agreements and the applicable legal requirements.

You can obtain other sample contracts from ODF's Forestry Assistance Program, or from stewardship foresters at local ODF offices.

Remember that each contract must be tailored to the individual needs of the parties involved. No sample agreement can cover all situations or be consistent with the often-changing principles of law.

For More Information

OSU and PNW Extension publications

To view or order: extension.oregonstate.edu/catalog

- EC 1587. *Selling Timber and Logs*
- PNW 641. *Managing Woodland Roads: A Field Guide*

Other resources

Oregon Department of Forestry

- Area and district offices (<http://www.oregon.gov/ODF/pages/offices.aspx>)
- Forestry Assistance Program (<http://www.oregon.gov/odf/pages/field/kl/forasst.aspx>)
- Stewardship foresters (<http://www.oregon.gov/ODF/privateforests/pages/findforester.aspx>)

Oregon's Forest Protection Laws: An Illustrated Manual (revised 2nd edition). Portland, OR: Oregon Forest Resources Institute. 2011. (<http://oregonforests.org/content/ofri-resources>)

Table 1. Elements that may be needed in a sales or service contract for a woodland operation

Item	Description
Location	<p>Include a legal land description for the sale of standing trees (stumpage) and road easements.</p> <p>Include a portion of a map outlining sale areas or road locations, following natural or survey boundaries. Mark these clearly and tag them on the area proposed for harvest. Include the method of marking the boundaries in the contract. Be sure to include all maps, sketches, or anything referenced in the body of the contract.</p> <p>A licensed surveyor must perform any land surveys and legal descriptions, but have your attorney incorporate the information into the contract to avoid any ambiguity.</p>
Term of the contract	<p>State clearly the beginning and ending dates for the agreement. Provide a means for granting extensions, if unseasonable weather makes it too difficult to log or if logging would harm the property. This is a very important clause.</p> <p>Access to counsel: Include a statement that each of the parties has had the opportunity to be represented, to the extent desired, by legal counsel of its choice in respect to the transaction.</p>
Operation	<p>Include a clause to either suspend or terminate the operation when the seller alone determines that there is a failure to follow the terms of the contract. This is another important clause.</p>
Equipment	<p>Limit the kind of equipment used on the property according to the economic and environmental conditions that affect the operations (e.g., slope, soil moisture).</p>
Integrating modification	<p>The current agreement constitutes the entire agreement of the parties with respect to matters described and supersedes all prior written agreements.</p>
Compliance with law	<p>Parties shall comply with all applicable federal, state, and local statutes, ordinances, rules, laws, regulations, orders, requirements, and standards in effect or which arise in connection with parties performance under the agreement and shall defend, indemnify, and hold harmless the other party from any and all claims, including attorney fees from the violation of such applicable laws.</p>
Forest Practices Act and Rules	<p>Require adherence to the directives of the Oregon Forest Practices Act and Administrative Rules.</p> <p>In Oregon, the logging operator is responsible for meeting state forest fire regulations. However, the landowner may require additional measures.</p> <p>The contract should assign responsibility for payment of firefighting costs and damages from fires caused by logging.</p>
Residual stand protection	<p>Emphasize the importance of caring for “leave” trees, either in falling or in skidding. For a thinning or other silvicultural treatment requiring “leave” trees, establish a quantitative method of measurement and penalties for cutting unmarked trees.</p> <p>Describe how trees are marked—for cutting, for the residual stand, or for the boundaries of a clear-cut.</p>
Slash disposal	<p>Include specifications for slash disposal from timber harvest.</p>
Roads, landings, bridges, culverts	<p>Specify location, construction standards, and maintenance of roads, landings, bridges, and culverts. Prepare these specifications in terms of future as well as present management objectives.</p> <p>Buyer or lessee should be required to repair damage to existing fences, bridges, and roads—or pay damages.</p>

(Table continues.)

Table 1. Elements that may be needed in a sales or service contract for a woodland operation

Item	Description
Easements	<p>Establish whether the buyer or seller is responsible for obtaining and paying for road access agreements and road maintenance and repair. Consider including a “Right to Relocate” clause.</p> <p>Make certain that the buyer of forest products or lessor of forestland has the right to enter and work on the property, including the right to remove forest products sold under contract.</p> <p>Conditions of use: Include pertinent items of usage such as obeying speed limits, locking/unlocking gates, no permitting of drugs or alcohol, reporting threatened or endangered species, and providing fire protection.</p> <p>Once all parties sign the easement, record the document as soon as possible to avoid any ambiguity in the terms of the agreement.</p>
Insurance	<p>List the types and amounts of required insurance. Insurance typically needed includes:</p> <ul style="list-style-type: none"> • General liability and motor vehicle • Loggers’ excess property damage • Workers’ compensation <p>Require proof of insurance and endorsements that require prior notice of any change or cancellation of the insurance. It is recommended to include seller or leaser as “additional named insured” on the contractor’s policy.</p>
Severance Tax and Forest Products Harvest Tax	<p>Under Oregon law, the owner of the forest product at the time of harvest pays these taxes. However, responsibility for paying these can be shifted to another party in the contract. If that party fails to pay the tax, responsibility for the tax reverts to the owner of the forest product at harvest.</p>
State and federal payroll, income, and other taxes	<p>State that the buyer agrees to pay all taxes associated with his or her operation on the sale except those specifically exempted by the contract.</p>
Method of payment	<p>State how and when the buyer will pay for the stumpage, logs, or other forest products or services provided.</p> <p>Provide a system for checking the volume and estimation of logs removed or delivered.</p> <p>Describe quality control factors or assessment of services provided and according payment structure in relation to the successful completion of such services.</p>
Resolution of disputes	<p>Provide for arbitration of disputes if you don’t want court action. (Arbitration is usually cheaper and faster than a trial, and you can select an expert as the arbitrator.)</p> <p>Provide for payment of reasonable arbitration fees to the prevailing party. Arbitration usually—but not always—is final.</p>
Mutual attorneys’ fees	<p>Whether or not there’s an arbitration clause, provide for payment of reasonable attorneys’ fees to the party prevailing in any suit or action for breach of contract.</p>
Waiver of breaches	<p>Include a clause that states that if the seller waives one breach or default of the contract, the waiver is not to be interpreted as giving permission for continued or future breach of the contract.</p>
Liabilities	<p>Require the buyer to keep all products harvested or timber purchased free from liens or attachments.</p>

(Table continues.)

Table 1. Elements that may be needed in a sales or service contract for a woodland operation

Item	Description
Severability	Include a clause that provides that if one or more provisions in the contract are illegal, the rest of the contract still is enforceable.
Notice	Provide for notice of breach of contract, and state how notice will be delivered.
Signatures	Place the seller's and buyer's names, legal addresses, and signatures at the end of the contract. If you have an agent, show the agent's name and address. Include the date and place where the agreement was agreed upon and signed.

My Notes

Appendix 1: Sample Timber Sale Agreement

OWNER'S name: _____

OWNER'S address: _____

Beginning date: _____

Termination date: _____

_____ (OWNER'S name) being the OWNER of timber on lands described herein and desiring to sell the described or designated trees, logs, or timber thereon subject to certain stipulations following, bargains and agrees with

_____ (PURCHASER'S name), hereinafter called PURCHASER, of

_____ (PURCHASER'S full address).

Timber

Timber shall constitute standing trees, downed trees and logs, and portions of logs, which are capable of being measured in cubic feet or board feet.

If thinning, trees designated for removal shall be marked with _____ (color) paint at DBH and at the base (below stump height) of the tree. All timber within the area designated by the OWNER, comprising contract area, is situated in the sale area described below. Map IS/IS NOT attached as Exhibit "A."

OR

If clear-cut, all timber shall be removed from designated area. All snags shall be felled if over 15 feet in height unless heavily shaded or surrounded by young conifer trees. PURCHASER shall make reasonable and honest effort to save young conifers during logging operation. All timber within the area designated by the OWNER, comprising contract area, is situated in the sale area described below. Map IS/IS NOT attached as Exhibit "A."

Designated timber shall be sold for the following considerations:

The Stumpage rate per ton for chip logs shall be _____% (or \$ _____/ton) of the Mill Delivered Price.

The Stumpage rate per thousand board feet (MBF) for conifer sawlogs or better material shall be _____% (or \$ _____/MBF) of the Mill Delivered Price.

The Stumpage rate per thousand board feet (MBF) for hardwood sawlogs or better material shall be _____% (or \$ _____/MBF) of the Mill Delivered Price.

Poles, Piling, and Export:

Other:

All checks and scale summaries shall be delivered to:
_____ (OWNER'S name and address)

OR

If lump sum, PURCHASER agrees to pay OWNER, as the total purchase price for the timber being sold hereunder, the sum of \$ _____. All timber sold is under the terms and conditions of this contract. All timber within the area designated by OWNER, comprising contract area, is situated in the sale area described as follows:

Legal Land Description

Township: _____ Range: _____ Section: _____ Subdivisions: _____

Marketing

Logs shall be sold where deemed the best return to any of the following approved mills or markets or others to be agreed upon in writing from time to time, with instructions for stumpage money to be remitted directly to OWNER according to the foregoing schedule:

Mill	Address	Type of logs
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Insurance Requirements

Before commencement of any operations under this Stumpage Sale Agreement, PURCHASERS shall procure and continue to carry during the time period of this contract, including any extension of said contract, the following insurance, with the minimum amounts set forth:

- A. Automobiles
Bodily Injury: \$1,000,000 Each Occurrence
Property Damage: \$1,000,000 Each Occurrence
Or Combined Single Limits: \$1,000,000
- B. Exposures Other Than Automobiles Including Contractual and Completed Operations
Bodily Injury: \$1,000,000 Each Occurrence
\$1,000,000 Each Person
Property Damage: \$1,000,000 Each Occurrence
Or Combined Single Limits: \$1,000,000
- C. Broad Form B Logging Property Damage
With Limits of Not Less Than \$1,000,000 Each Occurrence
Including \$300,000 Non-negligent Firefighting Coverage (IRS 477)
- D. Workers' Compensation
Workers' Compensation Insurance from a responsible carrier shall be maintained. Further, PURCHASERS shall be covered by equivalent insurance if PURCHASER is not a corporation. The insurance shall provide the schedule of employee benefits required by law. Corporate PURCHASERS shall provide such insurance for their officers and employees. Any and all independent contractors assisting PURCHASERS shall, at their own or PURCHASERS' expense, provide similar insurance and agree to indemnify and hold OWNER harmless from any and all claims arising out of the performance of this contract.

Certificates evidencing such insurance and bearing endorsements requiring ten (10) days notice to OWNER prior to any change or cancellation shall be furnished to OWNER, prior to PURCHASER'S commencement of operations, for all required coverage.

Fire Precaution, Hazard Abatement, and Fire Fighting

A. Fire Precaution and Fighting Fires

PURCHASER and his agents shall faithfully keep, perform, and observe all requirements and obligations imposed by law with respect to the management, control, and operation of forestlands or cutover lands, and with respect to logging generally. This shall further refer to all laws imposed by the State of Oregon. PURCHASER and his agents shall exercise the highest degree of care to prevent fire from rising on or coming upon the above-described area and real property. PURCHASER and his agents shall use every possible effort at his own cost and expense to control, extinguish, and prevent the spread of any such fire. PURCHASER and his agents shall immediately notify OWNER'S agent of any fire upon the area described in this agreement or adjacent property. PURCHASER and his agents shall defend, indemnify, and hold OWNER harmless from any and all costs and expenses or from any and all claims of damage to person or property of any third party arising out of PURCHASER and his agents' failure to use every possible effort to prevent, control, or extinguish any such fire.

PURCHASER and his agents shall provide all fire equipment specified by the State of Oregon. In the event of extra-hazardous fire weather as determined by the State of Oregon, PURCHASER and his agents shall furnish, as may be required by the State of Oregon, additional fire protection.

B. Slash Burning

Slash burning normally is not necessary after thinning and other partial cutting practices. Slash burning is occasionally a necessary or desirable part of final harvest cutting and forest rehabilitation projects. If any spot or broadcast slash burning is considered to be necessary or desirable, it will be done only with the advice and consent of OWNER and/or the local unit of the Oregon State Department of Forestry. Slash burning IS/IS NOT contemplated under this agreement. PURCHASER bears the sole responsibility to obtain all necessary permits from government agencies and to be legally responsible if burning is done as part of the logging operation. PURCHASER further agrees to use the utmost care to control, maintain, and limit the fire within the designated area and to follow all directives of any governmental agency involved with the burning.

C. Hazard Abatement and Maintenance

PURCHASER agrees to perform certain work on the land that is the subject of this agreement—such as brush scarification, treating hardwood stumps with proper chemicals, preparation of helicopter landing sites, construction of necessary bridges, culvert repairs and installation, general road maintenance, falling of snags, construction of ponds and roads necessary for fire protection, razing old buildings, filling dry wells, and other activities which OWNER may request.

The foregoing represents a partial list of those tree farm cultural, road maintenance, fire prevention, and hazard reduction activities which OWNER may request PURCHASER to perform or assist OWNER to perform as part of the PURCHASER'S obligations under this contract as an independent contractor.

Unless specifically stated otherwise, PURCHASER'S costs in connection with A, B, and C above shall not be reimbursed by OWNER, it being understood that such costs were an element considered in arriving at the stumpage price for which the timber was sold under the terms of this agreement. Said work shall be performed by PURCHASER as an independent contractor and not as an employee or agent of OWNER.

General and Tax Liability

PURCHASERS and OWNERS agree to abide by all State and Federal Laws and regulations and to pay all taxes arising from their operation.

Logging Methods

Logging shall be by tractor and/or tractor and arch. Land survey and corner monuments will be protected and preserved. The following guidelines are listed for logging methods:

1. Be sure where the timber to be logged is located. Avoid TRESPASS. Survey corners and any and all other property markers should be located. If there is any danger of these being destroyed, they should be marked with flagging or paint. Neighbors' fences should be protected.
2. Lay out roads and skid roads before cutting starts.
3. When building roads and skid roads, precede the bulldozer with a worker and power saw and cut windfalls to length, to be yarded out, not pushed through the reproduction. Avoid damage to residual trees.
4. Cut low stumps: Stump height in inches not to exceed $\frac{1}{2}$ diameter DBH of trees.
5. Use fern patches, brush areas, and old roads for road locations. Avoid going through reproduction and small poles. Even 1-year-old conifer reproduction is important.
6. Cut off large limbs before yarding to avoid swiping.
7. Keep skid roads to a minimum width.
8. Keep the landings to a minimum size.
9. When pruning, such as along roads, cut the limbs off FLUSH with the bole of the tree.
10. Pile debris at landings so that it can be burned without damage to the surrounding reproduction and/or timber.
11. Fall all snags (regardless of size or height) that could reach roads or landings before using roads.
12. Operations on OWNER'S land will be confined to periods when erosion and soil compaction will not be accelerated (generally from April 1 to November 1).

Roads and Road Maintenance

Road Building: No new roads will be built on the operating area without OWNER'S prior written approval.

Road Maintenance: PURCHASER or PURCHASER'S agent will be required to maintain both rock and dirt roads in his/her operating area during this contract interval. Dirt roads will not be used when they will rut with pick-up truck traffic.

No yarding will be done when mud flows ahead of the yarding vehicle. After use of any dirt road or skid trail, water bars will be required every 100 feet or at a distance so as to prevent excessive erosion to road. All roads will be kept open unless currently being used in the logging process, and will be clear at the end of every working day.

Method of Payment

PURCHASER shall order all buyers of his/her logs or lumber to pay OWNER direct the stumpage money indicated in the first paragraph of this agreement. This stumpage money is due on the first and fifteenth of each month for all logs delivered. All payments shall be based on net scale. PURCHASER shall furnish OWNER by _____ (*time and date*) summary and compilation by species, grade, and buyer, together with delivery tickets for all logs removed the preceding week.

Assignments

This agreement cannot be assigned.

Suspension

OWNER has the option to suspend operations under this agreement when, in his/her opinion, extremely hazardous fire weather exists, or if some provision of this contract is not carried out.

Termination

This agreement shall terminate on _____ (*date*) unless cancelled sooner by either of the parties, provided that PURCHASER shall have the right of first refusal if OWNER desires to continue this agreement. OWNER has the right to dictate a new price, terms, and other stipulations at that time.

Mutual Attorneys' Fees

In the event either of the parties institutes suit or legal action to procure any remedy for any breach hereof, the prevailing party may recover from the other reasonable attorneys' fees in such suit or action, and on any appeal.

Waiver of Breaches

No waiver or any breach or default shall operate or be construed to constitute a waiver of any subsequent breach or default.

Liabilities

PURCHASER agrees to keep any and all logs and timber or other forest products subject to this agreement free from all liens or attachments while this agreement is in force. In the event of default, cancellation, forfeiture, or other termination of this contract, OWNER shall remain vested with full title to all timber, logs, or other forest products including lumber on the premises described, or to any not paid for according to the terms of this agreement.

Rights-of-Way Fees

A. Fronts on Public Road, No Right-of-Way involved.

The parties have executed this _____-page agreement on the day and year set opposite their signature in _____ County, Oregon.

Date: _____

By: _____ (*OWNER*)

Date: _____

By: _____ (*PURCHASER*)

Date agreement expires: _____

Exhibit "A"

Scale:

Legend: (complete legal description)

Logging requirements: (special requirements listed here)

Appendix 2: Sample Logging Contract

This agreement is entered into by and between

_____, hereinafter referred to as OWNER, and

_____, hereinafter referred to as LOGGER.

Whereas, OWNER has timberland in that portion of

(*legal description*)

Whereas, OWNER desires to have logged and removed from the above-described property all merchantable timber designated by

_____ (*name*), an agent for

_____ (*company or individual name*).

Whereas, LOGGER has represented to OWNER that he is fully acquainted with the requirements of the OWNER, that he understands this agreement; that he is competent and responsible; that he owns or controls the use of equipment adequate to perform the road construction, logging and decking, brush disposal, and hauling herein contemplated.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS, CONDITIONS, AND AGREEMENTS HEREINAFTER CONTAINED, THE PARTIES DO AGREE AS FOLLOWS:

1. **AREA:** The parties understand and agree that the logging to be performed herein shall be performed in that area known as that portion of
Section _____
Township _____
Range _____, consisting of _____ acres or thereabouts.
2. **WORK AND LOCATION OF DELIVERY SITE:** LOGGER agrees to handle all phases of logging, which shall include, among other activities, falling and bucking, yarding, loading, hauling, and cleanup. Logs will be delivered to mills which are approved by OWNER.
3. **PROTECTION AND MAINTENANCE OF LOGGING ROADS AND IMPROVEMENTS:** LOGGER shall be responsible only for work necessary in the immediate area he is logging. LOGGER shall water-bar all roads or trails or ditch skid trails used during the life of this contract. All roads shall be kept clear of logs and debris at all times.

LOGGER shall use all reasonable and necessary precautions to prevent damage to the main logging roads used during the life of this agreement and will repair any road damaged in the process of logging. LOGGER shall use for this operation only those roads designated by OWNER.

LOGGER shall protect all fences, power lines, and other improvements. Damaged facilities shall be repaired or replaced at LOGGER'S expense.

4. **BRANDING OF LOGS:** Before removing any logs from the designated area, LOGGER shall cause to have all logs branded in a legible manner with such brand or brands as may be designated by OWNER. All timber upon the area in question and all logs produced therefrom shall at all times be and remain the property of OWNER.

5. **PAYMENT RATES AND ADVANCES:** The parties understand that the rates to be paid to LOGGER are _____% of the value of the logs paid by the log buyer. OWNER further agrees the log buyer may directly pay LOGGER his share of the proceeds.
6. **SCALING:** It is understood and agreed that all scaling and grading shall be performed by or certified by a certified third party and that payment shall be based on net scale.
7. **MANAGEMENT—FIRE:** LOGGER shall faithfully keep, perform, and observe all requirements and obligations imposed by law with respect to the management, control, and operation of forestlands or cutover lands, and with respect to logging generally. This shall further refer to all laws imposed by the State of Oregon. LOGGER shall exercise the highest degree of care to prevent fire from starting on or coming upon OWNER'S property. LOGGER shall use every possible effort at his own cost and expense to control, extinguish, and prevent the spread of any such fire. LOGGER shall immediately notify OWNER'S agent of any fire upon the area described in this agreement or adjacent property. LOGGER shall defend, indemnify, and hold OWNER harmless from any and all costs and expenses or from any and all claims of damage to person or property of any third party arising out of LOGGER'S failure to use every possible effort to prevent, control or extinguish any such fire.

LOGGER shall provide all fire equipment specified by the State of Oregon. If the State of Oregon determines extra-hazardous fire conditions exist, LOGGER shall furnish any additional fire protection required by the State of Oregon.

8. **INSURANCE:** During the life of this agreement, including any extensions thereof, LOGGER shall carry and pay for the following minimum insurance amounts:

- a. Public Liability Insurance:

Automobiles

Bodily Injury: \$1,000,000 Each Occurrence

Property Damage: \$1,000,000 Each Occurrence

Or Combined Single Limits: \$1,000,000

Exposures Other Than Automobiles Including Contractual and Completed Operations

Bodily Injury: \$1,000,000 Each Occurrence

\$1,000,000 Each Person

Property Damage: \$1,000,000 Each Occurrence

Or Combined Single Limits: \$1,000,000

Broad Form B Logging Property Damage

With Limits of Not Less Than \$2,000,000 Each Occurrence

Including \$300,000 Non-negligent Firefighting Coverage (IRS 477)

OWNER shall be named as an additional insured on such policy or policies and shall be provided with certificate(s) of insurance evidencing such coverage no later than _____ (date). OWNER shall be given at least thirty (30) days written notice of any cancellation, expiration or modification of such policy or policies.

- b. LOGGER, in conducting operations under this agreement, shall fully comply with the Workers' Compensation Laws of the State of Oregon and maintain coverage not less than the amount required by law for each and every employee or agent under his/her direction or in any way associated with LOGGER'S operation on OWNER'S property.

9. **INDEPENDENT CONTRACTOR:** OWNER and LOGGER agree that during the life of this agreement and in accordance with its terms, LOGGER is an independent contractor and at no time, nor under any circumstances, shall LOGGER be considered an agent or employee of OWNER. LOGGER shall be responsible for any loss, personal injury, death, and/or other damages that may be done to or suffered by workers or other persons in connection with the operations to be carried out pursuant to this agreement and shall defend, indemnify, and hold harmless OWNER against any claims of loss, injury, death, and/or damage made by any worker or other person associated with LOGGER. This shall apply to all incidents of such loss, injury, death, and/or other damages, including incidents of loss, injury, death, and/or damage for which either or both parties hereto may or shall be liable.
10. **LIABILITY LIENS:** LOGGER agrees that he will protect, indemnify, save, and hold OWNER harmless from and against any and all liability of any kind and nature growing out of or in connection with this agreement.

LOGGER will also protect all timber and logs from all liens, costs, or charges for labor, materials, or supplies, which may be incurred by LOGGER or anyone claiming under him in this operation.

11. **ASSIGNMENT:** Parties agree that LOGGER shall not assign or transfer his interest herein without first obtaining the written consent of OWNER.
12. **COMPLETION DATE:** Parties agree that all logging contemplated, including necessary cleanup complying with OWNER'S specifications, shall be completed in full on or before _____ (*date*), unless extended in writing by OWNER.
13. **ATTORNEY FEES:** If this agreement between LOGGER and OWNER becomes a matter of litigation between the parties, the prevailing party shall be entitled to reasonable attorney fees and court costs in connection therewith.
14. **BINDING ON HEIRS:** Subject to the provisions contained herein, this agreement shall be binding upon the heirs, executors, administrators, successors, and legal representatives of the parties hereto.
15. **TERMINATION—DEFAULT:** The parties agree that either party may at any time, with or without any cause whatsoever, terminate this agreement by giving written notice of such termination to the other party at least thirty (30) days prior to the date upon which said termination becomes effective. Upon the date of termination, LOGGER shall vacate the real property and remove all his appliances, tools, and equipment therefrom, and OWNER may at once take possession of any and all parts of the real property upon which LOGGER may be operating and all standing and down timber thereon. If this agreement is so terminated by OWNER prior to the time it is fully carried out by LOGGER, OWNER shall pay LOGGER as follows:
 - a. For all logs delivered under the terms of this agreement for which payment has not been made, OWNER shall pay LOGGER the prices set forth in this agreement.
 - b. OWNER shall reimburse LOGGER for all reasonable expenses incurred by LOGGER prior to such termination in connection with any yarded timber on any area which has not been completed and entirely logged off at the time of such termination.

If this agreement is terminated by LOGGER, OWNER shall make payment to LOGGER under the terms of subdivision (a) of this clause, but OWNER shall be under no obligation to LOGGER for any expenses referred to in subdivision (b) of this clause. Notwithstanding anything to the contrary herein above set forth, it is expressly understood that time and strict performance by LOGGER of all covenants and agreements herein contained are the essence of this agreement, and LOGGER shall be and remain liable to OWNER for any breach of contract or violation of any and all terms of this agreement prior to the date of such termination. Therefore, OWNER shall maintain all rights to pursue any remedy at law, or in equity, for such breach or violation.

If LOGGER is in default of any of the provisions of this logging agreement, OWNER reserves the right to immediately shut down the operations of LOGGER while such noncompliance continues. If such default remains uncorrected for a period of fifteen (15) days after OWNER'S giving of written notice to LOGGER, then and in that event, OWNER shall have the right to terminate this agreement and to invoke any remedies provided for herein or provided by law or in equity. Inasmuch as the amount of damages which may accrue due to LOGGER'S default are difficult to ascertain and measure, it is herein provided that any moneys owed LOGGER that OWNER shall have in its possession shall be retained as liquidated damages. However, such forfeitures of money shall not be deemed a remedy to the exclusion of any other remedies provided for herein or by law or in equity.

- 16. **SUPERVISION AND MANAGEMENT:** LOGGER understands that _____ (*name*) is the designated representative of OWNER with respect to all agreements, supervision and decisions related to this agreement. LOGGER is solely responsible for supervision of his employees, agents, and subcontractors and management of their work.
- 17. **NOTICE:** Any written notice or communication given by one party to the other provided for in or concerning this agreement, may be delivered to the LOGGER in person or to _____ (*name, typically of OWNER*) in person or be delivered by being sent via certified mail to the party for whom intended, and shall be deemed served upon such party if sent by certified mail on the day following the day on which it is deposited in the United States Mail in any post office in the State of Oregon.

OWNER agrees to accept certified mail sent to _____
(*typically, address of OWNER*).

LOGGER agrees to accept certified mail sent to _____
(*typically, address of LOGGER*).

- 18. **SAFETY:** LOGGER agrees that he, his heirs, assigns, employees, and personnel so designated to fulfill the within agreement shall conduct their activities in a safe and workmanlike manner and shall cooperate in making it possible for OWNER'S agent to safely and economically scale, inspect the cutting, logging, construction, or other activities of LOGGER under this agreement.
- 19. **CONTROL OF OUTPUT:** The parties agree that at all times OWNER'S agent shall direct and control the extent and quantity of logs to be delivered, the areas in which LOGGER is to work, and the output of logs.
- 20. **ADDITIONS TO AGREEMENT:** The foregoing writing contains all the terms and provisions of the present agreement between the parties. Parties agree any additions, variants, extensions, or modifications to their agreement shall be in writing and signed by OWNER and LOGGER. Any such changes shall be affixed to and made a part of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this agreement the day and year set opposite their signatures.

_____ County, Oregon

Date: _____ By: _____ (*Signature*)

Date: _____ By: _____ (*Signature*)

Appendix 3: Sample Reciprocal Easement

THIS RECIPROCAL EASEMENT, "Easement," is made this ___ day of _____, 20___ between
_____ and _____

(name and address) (name and address)

RECITALS

- A. WHEREAS, the parties have entered into a Petition to Vacate a portion of Road Number _____ (*description*) described in the attached Exhibit "A" and hereby contemplate the successful vacation of said road; and
- B. WHEREAS, the parties desire to exchange perpetual, nonexclusive easements with the other party(ies) as such easement provides access to the other party's(ies') lands; and

THEREFORE, the parties agree as follows:

1. The true consideration for this Easement is zero dollars.
2. The rights granted hereunder include the perpetual right to use, maintain, repair, and reconstruct an existing road, for access to and from each party's (ies') land.
3. Each party reserves to itself, its respective successors and assigns, the right to use the road in common with the other party(ies), and the right to grant further use rights to third parties for that portion of the Easement crossing such party's land.
4. When any party uses the road, said party shall maintain it to as good or better condition than existed prior to its use. During periods of joint use, the parties shall meet to appoint a maintainer and determine each party's proportionate share of the maintenance cost.
5. Each party reserves to itself, its respective successors and assigns, all timber and other natural resources within or on the Easement area on such party's land.
6. The rights granted herein are subject to easements of record and mineral rights of third parties.
7. The parties agree this Easement shall serve the lands now owned or acquired in the future by any party or its subsidiaries, for which the Easement provides access.

By: _____ (*signature*)

By: _____ (*signature*)

Exhibit "A"

Description:

Appendix 4: Sample Forestry Road Easement

THIS AGREEMENT, made and entered into this ____ day of _____, 20____, by and between _____, hereinafter called GRANTOR, and _____, hereinafter called GRANTEE.

WITNESSETH:

I

GRANTOR, for valuable consideration, the sufficiency and receipt of which is hereby acknowledged, grants and conveys to GRANTEE, its successors and assigns, a permanent non-exclusive forestry road easement _____ feet in width, being _____ feet on each side of the centerline of a road located approximately as shown on the attached Exhibit "A," which by this reference is hereby incorporated herein (easement area). The aforesaid easement area crosses land owned by GRANTOR in _____ County, State of Oregon as described in the attached Exhibit "B," which by this reference is hereby incorporated herein.

This easement is subject to all matters of public record that have been recorded before the recording of this easement.

II

The parties agree and acknowledge that the rights granted in this easement shall be subject to the following terms and conditions:

1. This easement is conveyed for the purpose of construction, reconstruction, use, and maintenance of the above described road for the purpose of moving specialized logging equipment, logging trucks, or other equipment used for growing, harvesting, or managing timber on lands now owned by GRANTEE, as described in the attached Exhibit "C," which by this reference is hereby incorporated herein.
2. GRANTOR reserves for itself, its heirs, successors, and assigns, the right at all times for any purpose, to cross and re-cross said road at any place on grade or otherwise, and to use said easement area in a manner that will not unreasonably interfere with the rights granted to the GRANTEE herein.
3. GRANTOR may grant to third parties, upon such terms as it chooses, any or all of the rights reserved by it herein, provided such use shall not unreasonably interfere with the rights granted to the GRANTEE.
4. The cost of road maintenance and resurfacing shall be allocated on the basis of respective uses of said road. When any party uses the road, the party shall perform or cause to be performed, or contribute or cause to be contributed, that share of maintenance and resurfacing occasioned by such use as hereinafter provided. During periods when the road is being used solely by one party, such party shall maintain that portion of the road so used to the standards existing at the time use is commenced. During periods when more than one party is using the road, or any portion thereof, the parties shall meet and establish necessary maintenance provision. Such provision shall be written and include, but shall not be limited to:
 - a. The appointment of a maintainer, which may be one of the parties to this agreement or any acceptable third party, who will perform, or cause to be performed, at a reasonable and agreed upon rate, the maintenance and resurfacing of the road or the portion being used; and
 - b. A method of payment by which each party using the road, or a portion thereof, shall pay its pro rata share of the cost incurred by said maintainer in maintaining or resurfacing said road or portion thereof.

For purposes of this agreement, maintenance is defined as the work normally necessary to preserve and keep the roadway, road structure, and road facilities as nearly as possible in their condition when the road is put into use or as hereafter improved.

5. Each party using any portion of the road shall repair, or cause to be repaired, at its sole cost and expense, any damage to the road beyond which it would cause through normal and prudent usage of the road. Should inordinate damage to the road occur which is not caused by an authorized user of the road, the parties shall meet to agree upon the cost of replacement and/or repair, the party to undertake the replacement, and the shares of replacement cost to be borne by each user of the road. GRANTEE and its agents shall obey and comply with any laws and regulations concerning said road and exercise proper and prudent caution and care when using the road.
6. Unless the parties agree in writing to share the cost of improvements in advance of such improvements being made, such improvements shall be paid solely by the party improving the road.
7. GRANTOR reserves to itself all timber and other natural resources now on or hereafter growing or otherwise within the easement area.
8. The GRANTEE may permit its respective contractors, licensees, lessees, purchasers of timber or other valuable materials, and their agents, hereinafter individually referred to as "Permittee" and collectively referred to as "Permittees," to exercise the rights granted to it herein; provided, that when a Permittee plans to use any portion of said road for purpose of hauling timber or other valuable materials, such party shall notify GRANTOR at least fifteen (15) days prior to the commencement of use of said rights, advising of the portion of road to be used, the approximate dates, when such use will begin and end, and the approximate volumes of forest products or valuable materials to be hauled and forthwith upon the completion of such use notify GRANTOR.
9. GRANTEE and each of its Permittees, before using any of the road(s) for commercial purposes, shall:
 - a. Obtain and, during the time of such use, maintain a policy of liability insurance in form, substance and amount satisfactory to GRANTOR, insuring GRANTOR and said GRANTEE against liability arising out of its operation, including use of vehicles, and naming the GRANTEE and GRANTOR as co-insureds.
 - b. Minimum amounts of insurance shall be:

Automobiles

Bodily Injury: \$1,000,000 Each Occurrence
 Property Damage: \$1,000,000 Each Occurrence
 Or Combined Single Limits: \$1,000,000

Exposures Other Than Automobiles Including Contractual and Completed Operations

Bodily Injury: \$1,000,000 Each Occurrence
\$1,000,000 Each Person
 Property Damage: \$1,000,000 Each Occurrence
 Or Combined Single Limits: \$1,000,000

Broad Form B Logging Property Damage

With Limits of Not Less Than \$1,000,000 Each Occurrence
 Including \$300,000 Non-negligent Firefighting Coverage (IRS 477)

- c. Deliver to each party hereto a certificate from the insurer of said GRANTEE or Permittee which certifies that coverage, in not less than the above specified amounts, is in force and that, in the event of cancellation or modification of such coverage, the insurer will give each party thirty (30) days written notice prior to any cancellation or modification.

10. GRANTEE may not assign its rights and obligations under this Easement without the prior written consent of GRANTOR; and any such permitted assignment shall provide that the assignee will assume all obligations of the GRANTEE from and after the effective date thereof. Consent to assign shall not be unreasonably withheld upon transfer of title of lands owned by GRANTEE.
11. GRANTEE agrees to defend, indemnify, and hold harmless GRANTOR and its successors and assigns of and from and against all causes of action, litigation, cost, loss, liability, damage, and expense (including reasonable attorneys' fees) for injury or death to persons, whosoever, and damage to or loss of property, to whomsoever belonging, including the respective contractors, agents, employees, and representatives of GRANTOR, arising out of or in any way connected with the use of the road and easement area by the GRANTEE, its respective contractors, agents, employees, or representative.
12. If for a period of ten (10) years GRANTEE shall cease to use or preserve said road or any portion thereof for prospective future use, this easement shall automatically terminate without notice. If this occurs, GRANTEE and its successors and assigns agree that, upon GRANTOR's request, they shall quitclaim to GRANTOR or its successors in interest, in form and substance satisfactory to GRANTOR, all of GRANTEE's rights, title and interest that are granted by this easement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument, in duplicate, to become effective as of the day and year first above written.

Date: _____

Date: _____

By: _____

By: _____

(name and title)

(name and title)

Witness: _____

Witness: _____

(name and title)

(name and title)

NOTE: Witnesses are not necessary but can be helpful in the event of litigation.

Exhibit "A"

Scale:

Legend: (complete legal description)

Exhibit "B"

Scale:

Legend: (complete legal description)

Exhibit "C"

Scale:

Legend: (complete legal description)

Appendix 5: Sample Road Construction and Improvement Contract

This agreement is made and entered into between:

Woodland Owner _____ (*name*), hereinafter for convenience called OWNER and Contractor _____ (*name*), hereinafter called CONTRACTOR.

1. OWNER agrees to pay CONTRACTOR to construct and CONTRACTOR agrees to construct the road designated by OWNER in the following described area:
2. OWNER agrees to pay CONTRACTOR for road construction in the following manner: At amounts and rates in CONTRACTOR'S proposal.

Activity	Length (feet)	Cost (per foot)	Total cost
Improvement areas			
Improvement area #1	xxx ft.	\$xxx.xx	\$xxx.xx
Improvement area #2	xxx ft.	\$xxx.xx	\$xxx.xx
Road construction area			
Construction area #1	xxx ft.	\$xxx.xx	\$xxx.xx
Construction area #2	xxx ft.	\$xxx.xx	\$xxx.xx
Rock placement	Estimated volume (cu. yard or ton)	Cost (per cu. yard or ton)	Total cost
Rock type (e.g., 6" open)	xxx	\$xxx.xx	\$xxx.xx
Rock type (e.g., 1 ½-)	xxx	\$xxx.xx	\$xxx.xx
Rock type (e.g., pit run)	xxx	\$xxx.xx	\$xxx.xx
		Total cost	\$XXXX.XX

3. CONTRACTOR agrees to handle all phases of construction including, but not limited to, grading, ditching, culvert installation, subgrade completion, running surface completion, and landing construction. CONTRACTOR agrees to grade, ditch, install culverts, complete subgrade, running surface, and landing construction as directed by OWNER and outlined in Exhibit "A."
4. CONTRACTOR shall pay for all damages caused to timber by fires for the origin or spread of which CONTRACTOR or any of its employees, its subcontractors, or their employees, are responsible by act or neglect.
5. CONTRACTOR shall comply strictly with all State and Federal laws and regulations applicable to its operations, particularly with those relating to labor, fire control and prevention, and road construction and maintenance. During fire season CONTRACTOR shall supply at least a 1,000-gallon self-propelled water supply and meet all requirements as described under the Oregon Forest Practices Act and Rules.
6. CONTRACTOR shall protect all fences, power lines, and other improvements. Damaged facilities shall be repaired or replaced at the expense of the CONTRACTOR.
7. OWNER reserves the right to immediately shut down operation of CONTRACTOR if, in the opinion of the OWNER, excess damage is occurring at the construction site and/or to the access roads.

8. CONTRACTOR assumes the risk of injuries to persons, including its employees, the risk of liability for trespass on lands other than the contract lands, and the risk of damage to property of the incurring of any other expense in any manner arising out of operations under this agreement, including without limitation the risk of expense for suppression of fire coming onto or originating on the contract lands. CONTRACTOR shall indemnify and defend the OWNER from any loss, damage, and expense in any manner resulting or arising out of CONTRACTOR'S operations or any failure of CONTRACTOR to comply with any provision of this agreement.
9. CONTRACTOR shall comply with the Oregon Workman's Compensation Law and, if state coverage of employees is rejected, shall maintain private insurance providing sufficient employee compensation benefits and providing employer's liability insurance with limits of not less than \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to two or more persons in one occurrence, such insurance to be evidenced by certificates in the same form as required in this agreement for CONTRACTOR'S general liability insurance.
10. Before commencing operations, CONTRACTOR shall procure and carry during the term of this agreement, at its cost, public liability and property damage insurance (including Logger's Broad Form B) acceptable to OWNER with a combined single limit of \$1,000,000.00. Such insurance shall cover all risks arising directly or indirectly out of CONTRACTOR'S operation including without limitation risks arising out of conditions created on the property by CONTRACTOR, shall protect CONTRACTOR against claims of the OWNER, and shall protect CONTRACTOR and the OWNER against claims of third persons and shall contain an endorsement covering liability assumed under this contract. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to the OWNER prior to any change or cancellation shall be furnished to the OWNER before operations are begun. Such insurance shall also contain an endorsement covering third-party firefighting expense for which CONTRACTOR is legally liable, regardless of negligence.
11. A waiver by any party hereto of any breach of any of the provisions of this agreement shall be limited to such particular instances, and shall not operate as a waiver of, or be deemed to waive, any other or future breaches of the contract or any other provision hereof.
12. In the event suit or action is instituted to enforce any of the terms of this agreement, the prevailing party shall be entitled to recover from the other party such sum as the court may adjudge reasonable as attorney's fees at trial and on any appeal of such suit or action in addition all other sums provided by law.
13. Any notices required or permitted to be given under the provisions of this agreement shall be given in writing and mailed by registered or certified mail, addressed as follows:

To the OWNER at:

 (Woodland owner name and address)

To the CONTRACTOR at:

 (Contractor name and address)

14. It is mutually agreed that this Agreement begins _____ (date) and terminates at the completion of constructing the designated road, but not later than _____ (date).

15. Time is the essence of this Agreement. If CONTRACTOR fails to perform any obligation or condition imposed on it by the terms of this Agreement and such failure continues for ten (10) days after written notice from the OWNER specifying the failure and demanding its cure or if the CONTRACTOR should become insolvent, or make an assignment for the benefit of creditors, or be adjudged bankrupt, or a receiver or trustee in bankruptcy reorganization for its property be appointed, the OWNER may at its option terminate this Agreement or pursue any other remedy available for breach of contract.
16. This Agreement shall be binding upon and inure to the benefit of the parties, their successors, and assigns, but no interest of CONTRACTOR hereunder shall be assigned or otherwise transferred, voluntarily or involuntarily, without the prior written consent of the OWNER. CONTRACTOR may exercise its rights and discharge its obligations through agents, including subcontractors, but shall at all times remain fully responsible to the OWNER for the actions of such agents.
17. CONTRACTOR represents that this road construction contract has been executed by it on the basis of its own examination of proposed project and its opinion as to road construction costs.

Signed and sealed in duplicate this _____ day of _____, 20____.

 (OWNER)

 (CONTRACTOR)

Exhibit "A"

Dirt Spur R/W to be cleared and decked (tree length), to be ditched, graded, and ready for log hauling 98+00 stations

Repair, extend, and reposition existing culverts and install new culverts where needed.

Legal description:

Direction to the job from I-5 South:

Direction to the job from I-5 North:

Additional notes:

- All road segments to have _____-foot running surface.
- All cut banks to be _____.
- All landings to be flat and level.

Appendix 6: Sample Tree Planting Contract

This AGREEMENT is made this _____ day of _____, 20____ between:

(Woodland owner name and address)

herein called OWNER, and:

(Contractor name and address)

herein called CONTRACTOR.

Permits and Responsibilities

Before work starts, CONTRACTOR will designate, in writing, the person or persons who will represent and act for him in his absence from the job and will describe the areas of responsibility assigned to his representative.

Crew Supervision and Size

A maximum of xx (xx) and a minimum of xx (xx) planters will be allowed at the job site. One non-planting, English-speaking supervisor shall be provided at all times. In no instance shall more than xx (xx) or less than x (x) planters be working on the job site unless authorized by the OWNER.

Period of Contract

The job will begin _____ (*date*) or when the trees are first available in suitable condition from the nursery and weather permits. The job will be completed before _____ (*date*).

Suspension of Work

The OWNER may suspend work when weather and soil conditions become unfavorable for tree planting. Work will resume again when conditions are suitable for planting in the opinion of OWNER.

Generally, planting may proceed when:

1. Upper 10 inches of soil is moist.
2. Soil is not frozen more than ½ inch deep.
3. Snow cover is less than 2 inches.
4. Air temperature between 32°F and 65°F.
5. Wind velocity less than 20 miles per hour (disregard occasional, higher gusts).

Planting Stock

Seedlings, to be planted by area, stock type, density and species as shown in Exhibit "A," will be delivered by OWNER as close to the site as possible.

Care of Trees

Trees shall be kept from all damaging agents at all times, including drying, heating, smothering, freezing, drowning, mechanical injury, etc. CONTRACTOR will follow these minimum practices at all times:

1. Trees will be kept in a cool, shaded area.
2. Trees will be protected from drying winds.
3. Trees will be watered as directed by OWNER.
4. Trees shall not be dropped or thrown before or after removal from their packaging.
5. Containers will not be removed from storage or opened except as needed during one day's planting.
6. Trees left over from planters' bags or opened bundles will ordinarily be repackaged separately by species and lot and returned to cold storage each day. All unopened containers will be returned to cold storage each day.

Care of Trees During Planting

1. Trees carried by planter shall be in a bag for easy removal of one tree at a time. Roots shall be dipped in water prior to loading in tree-planting bags at the discretion of the OWNER.
2. At the planting spot, a tree shall not be removed from the bag before the hole has been prepared for it.
3. Roots of the trees shall not be twisted or whipped by planters at any time.
4. Trees shall be planted as received without root or top pruning or culling. If these operations appear necessary, or if mold, dry roots, freezing, drying, or evidence of other injury is observed, the condition shall be promptly reported to the OWNER for decision on culling or other action.

Specifications for Satisfactory Trees

1. **Clearing.** All debris, humus, ashes, and living vegetation shall be cleared or scalped away exposing bare, moist mineral soil on areas 12 inches square or larger. Occasionally when a deep, extensive slash accumulation occurs, the OWNER may accept less clearing providing the tree is well planted. The hole shall be opened deep enough and wide enough to fully accommodate the roots of the trees being planted. The hole shall be perpendicular to the ground surface, and shall be located near the center of the cleared area. Only hand tools capable of scalping and opening a hole perpendicular to the ground surface, broken out on three sides and at least 12 inches deep will be approved for use.
2. **Roots.** The tree shall be suspended vertically near the center of the hole with roots in a near natural arrangement (not "J" or "L" rooted). The roots shall not be doubled up, twisted, tangled, bunched, or stuffed.
3. **Depth.** The hole should be more than deep enough to hold the root system with ease and allow for broken soil all around the root system to promote root growth. Trees should be planted at the same depth they grew in the nursery or a little deeper. No portion of the roots shall be exposed.
4. **Straightness.** The stems of planted trees will be within 20 degrees of vertical.
5. **Tightness.** Moist mineral soil shall be filled in and compacted around the roots. Soil compacting shall be such that the tree shall not pull loose by a firm tug with upper stem or branch between thumb and forefinger. After the earth is compacted around the roots, the soil must be smoothed out to the level of the surrounding soil surface.
6. **Location.** A planted tree will be considered unsatisfactory when planted in improper places such as in standing water, on mounds of loose earth, in rodent runways, in erosion channels, in loose rock, in a shallow hole of underlying bedrock, or in duff.
7. **Tree Damage.** A tree with a top, stem, or root, which is torn, broken or bruised will be unsatisfactory when due to any action by the planter after the seedlings are removed from their shipping container.

8. **Natural.** A natural tree is defined as a healthy, undamaged Douglas-fir tree greater than 1 foot in height. A natural tree should be spaced as a normal planted tree with the following exception: When a natural tree is greater than 15 feet in height, plant no closer than the dripline of the natural tree.
9. **Tree Location and Spacing.** Proper selection of the planting site is as important as adhering to a precise planting spacing. The basic tree spacing for planting is listed in Exhibit "A." Where planting conditions are uniform, trees will be planted at the indicated spacing with rows, and trees within rows, being approximately the same distance apart. When site conditions prevent uniform spacing because of a non-plantable planting spot, spacing will be reduced from the base spacing to a minimum spacing of _____ feet or increased to a maximum spacing of _____ feet. Where unplantable areas exist which are larger than _____ feet apart, tree spacing on the perimeter of the unplantable area will be planted at _____-foot spacing. The above spacing guidelines define the number of planting spots. It is the intent of this contract to provide for a per-acre tree count commensurate with the spacing base average.
10. **Shading.** When indicated in Exhibit "A," trees will be planted on the north and east sides of available natural obstacles such as stumps, logs, debris piles, rocks and dead or live brush clumps. Trees will be planted as close to these obstacles as ground conditions permit. The spacing guidelines will be modified to allow the distance between trees to be increased to _____ feet, thus permitting planting in the shade of a natural obstacle.

Penalties

Since payment is based on number of seedlings planted, the hiding or destroying of trees are considered serious incidents and may result in the termination of this contract. Any planter found hiding or destroying trees will stop planting immediately and will not be allowed back on the planting site. When hidden seedlings are found, the penalty charge will be \$_____ per seedling or \$_____ per occurrence, which ever is greater. Seedlings dropped inadvertently and found by the OWNER will cost the CONTRACTOR \$_____ per dropped seedling.

Inspection

The OWNER will daily inspect and systematically take plots of each planting unit or completed parts thereof for purposes of computing the payment. Approximately 2% of unit area will be sampled using 1/50 acre plots. Plots will be taken in a manner to obtain a representative sample of the unit and each planter's work.

Spacing

The number of planted trees in the plot will be counted and the number of plantable spots will be determined. The percentage of satisfactorily planted trees will be calculated by deducting the percentage of overstocked or understocked trees from 100%.

Quality

Seedlings will be evaluated on the 10 specifications for satisfactory trees described previously in this contract. Each tree will either be rated as acceptable or unacceptable. The percentage of satisfactorily planted trees will be the number of acceptable trees divided by the total number of trees within the plot, times 100.

Calculation for Percent Satisfactory Planting

Percent Satisfactory Planting is figured by multiplying the percentage of well-spaced trees by the percentage of properly planted trees.

Example: 99% well-spaced trees × 98% properly planted trees = 97% satisfactory planting.

Re-Examination upon Contractor Request

If the original examination results are not acceptable to the CONTRACTOR, a re-examination may be requested. If re-examination indicates a variance of less than 5% from the first examination, the CONTRACTOR will pay the actual cost of the re-examination. CONTRACTOR will be paid on the basis of the re-examination.

Owner's Right to Terminate Contract

OWNER retains the right to terminate work under this contract at any time for due cause. Due cause can consist of improper planting, as spelled out previously, failure to appear or stay on the job (weather permitting), improper handling of planting stock, or failure to conduct work in a businesslike manner.

Payment

Basis for payment will be per thousand planted trees times the bid price. The bid price per tree or per unit is shown in Exhibit "A." CONTRACTOR will be paid the full bid price if the percentage of satisfactory planted trees is 95% or above. If the percentage is between 85% and 95%, payment will be reduced by the percentage under 95%. The CONTRACTOR will receive NO PAYMENT if the percentage of satisfactory planted trees is BELOW 85%.

Example: If the percentage of satisfactory planted was 87%, payment would be reduced by 8%.

OWNER will pay CONTRACTOR within five (5) days of receipt of invoice.

Bond or Cash Deposit

CONTRACTOR is required by the OWNER to post bonds, or cash deposits, in the amount of \$_____ to assure the following:

1. Guarantee of CONTRACTOR performance
2. Payment of CONTRACTOR'S employees
3. Payment of any subcontractors
4. Satisfaction of obligation to the Department of Labor and Industry and to the Employment Security Department.

CONTRACTOR shall supply evidence of such protection in the form of certificates or copies of bonds and policies before planting begins. Bonds shall remain in effect for 120 days after termination of planting.

Independent Contractor

It is agreed that CONTRACTOR undertakes this contract as an independent contractor and shall have full control of work and details thereof to be performed hereunder. As such independent contractor, CONTRACTOR shall comply with all Compensation Law, Social Security Law, the Fair Labor standards Act, Withholding, and any and all other laws and regulations pertaining to employers. CONTRACTOR agrees to bring himself within the terms of the Workmen's Compensation Act in the State of Oregon unless permitted, in writing, by OWNER to carry private employer's liability insurance.

CONTRACTOR will hire only laborers legally present and entitled to work in the United States. CONTRACTOR agrees to cooperate with the immigration and Naturalization Service, by providing INS, at its request, with payroll data and a list of employees, their birth dates, and their social security or "green card" numbers. Any refusal by CONTRACTORS to cooperate with the INS or any willful hiring by CONTRACTOR of laborers not legally entitled to work in the United States will be grounds for immediate termination of this agreement. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages.

Insurance Coverage

The CONTRACTOR agrees to indemnify and save and hold harmless the OWNER, its officers, agents, and employees, from any and all aliens, claims, liability, or damages for acts of commission, omission or negligence on the part of said Contract, its subcontractors, agents and employees, arising or growing out of the performance, malperformance, or nonperformance of any part of this contract.

CONTRACTOR shall, at his/her own expense, obtain and maintain public liability (bodily injury) and property damage insurance with limits as follows:

- a. Bodily injury liability, automobile
\$500,000 each person
\$1,000,000 each accident
- b. Bodily injury liability, except automobile
\$500,000 each person
\$1,000,000 each accident
- c. Property damage liability
\$1,00,000 each accident

Insurance furnished by CONTRACTOR shall include coverage against: Liability for all business operations; liability for products or completed operations; contingent liability for activities of subcontractors; vehicle liability. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to the OWNER prior to any change or cancellation shall be furnished to the OWNER before planting begins.

CONTRACTOR shall comply with the Oregon Workman's Compensation Law and, if state coverage of employees is rejected, shall maintain private insurance providing sufficient employee compensation benefits and providing employer's liability insurance with limits of not less than \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to two or more persons in one occurrence, such insurance to be evidenced by certificates in the same form as required in this agreement for CONTRACTOR'S general liability insurance.

Assignment

CONTRACTOR shall not sublet, transfer, or assign this contract or any part thereof, without the prior written consent of OWNER. Such consent shall not relieve CONTRACTOR of any liability or responsibility hereunder.

Project Alteration

OWNER may increase, decrease or alter work to be done and materials furnished hereunder. Any changes occasioned thereby in amounts to be paid hereunder shall be agreed to in writing prior to performance of such work or of furnishing such material. CONTRACTORS shall make no claim for extra work or extra materials unless so agreed to. All work or materials furnished hereunder shall at all times be subject to the inspection and approval of OWNER.

Contractor Cleanup

CONTRACTOR shall remove all excess materials, tree sacks, lunch wrappers, etc., daily. Upon completion of the unit, CONTRACTOR will remove all worn out tools and rubbish.

Contractor Rights and Responsibilities

Failure of CONTRACTOR to proceed promptly in a workmanlike manner within the required time, or to maintain an agreed-upon schedule, and failure of CONTRACTOR to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Failure of CONTRACTOR to employ only those legally present in the United States and failure to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages for any loss sustained. CONTRACTOR shall comply with all public laws, ordinances, and requirements respecting the work, obtain all required permits, and comply with

regulations of any insurance company which issues a policy on any part of the work or site. CONTRACTOR shall acquaint him/herself with limits of the property or right-of-way of OWNER'S operations.

The failure of OWNER to assert any of its rights hereunder shall not be construed as a waiver thereof.

As to the terms and conditions of employment, including, but not limited to, hiring, promotions, wages, hours, fringe benefits, CONTRACTOR will not discriminate against any person on the basis of race, creed, religion, sex, or national origin.

CONTRACTOR shall at all times indemnify and hold harmless OWNER from any liabilities, causes of action, damages, claims, or demands that may arise from or be incident to the work to be performed hereunder by CONTRACTOR, CONTRACTOR'S employees, or agents.

CONTRACTOR acknowledges that OWNER is under no obligation to extend or renew this contract at the expiration hereof, or to award or offer CONTRACTOR other or additional contracts or work. CONTRACTOR is not relying on any representation or promises other than those specifically set forth herein.

Signed and sealed in duplicate this _____ day of _____, 20____.

CONTRACTOR

By: _____
(signature) (print name)

OWNER

By: _____
(signature) (print name)

Exhibit "A"

Unit name, etc.:

Special instructions:

CONTRACTOR shall be paid \$_____ per designated unit or \$_____ per tree.

Trees shall be planted in a ration of _____% (species); _____% (species); _____% (species).

Trees shall be spaced approximately _____ feet apart where uniform spacing is practical. Where uniform spacing is impractical, trees may be planted as close as _____ feet or as far as _____ feet, depending on best planting locations.

_____ to _____ planters with a non-planting, English-speaking inspector.

_____ -foot scalp to mineral soil will be required.

OWNER will deliver trees as close as the nearest rocked road. CONTRACTOR will be responsible for getting the trees to the units.

NO trash is to be left on OWNER'S property.

BOTH ACRES AND TOTAL NUMBER OF SEEDLINGS TO BE PLANTED ARE ESTIMATIONS AND NOT GUARANTEES.

Appendix 7: Sample Herbicide Spraying Contract

This AGREEMENT is made this _____ day of _____, 20____ between:

(Woodland owner name and address)

herein called OWNER, and:

(Contractor name and address)

herein called CONTRACTOR.

Permits and Responsibilities

Before work starts, CONTRACTOR will designate, in writing, the person or persons who will represent and act for him in his absence from the job and will describe the areas of responsibility assigned to his representative.

Crew Supervision and Size

A maximum of xx (xx) and a minimum of x (x) applicators will be allowed at the job site. One English-speaking supervisor shall be provided at all times. In no instance shall more than xx (xx) or less than x (x) applicators be working on the job site unless authorized by the OWNER.

Period of Contract

The job will begin _____ (date) and the job will be completed before _____ (date) unless otherwise authorized by the OWNER.

Suspension of Work

The OWNER may suspend work when weather conditions become unfavorable for herbicide application. Work will resume again when conditions are suitable for herbicide application in the opinion of OWNER.

Generally, herbicide application may proceed when:

1. There will be no rain for 24 hours.
2. Wind is calm to no more than 5 miles per hour.
3. Humidity is equal to or greater than 30%.
4. Air temperature is between 35°F and 80°F.

Payment

Methods of payment are described in Exhibit "A." Work will be regularly inspected by OWNER. Payment will not be made until approved completion of all work. OWNER will pay CONTRACTOR within fifteen (15) days of receipt of invoice.

Bond or Cash Deposit

CONTRACTOR is required by the OWNER to post bonds, or cash deposits, in the amount of \$ _____ to assure the following:

1. Guarantee of CONTRACTOR performance
2. Payment of CONTRACTOR'S employees
3. Payment of any subcontractors
4. Satisfaction of obligation to the Department of Labor and Industry and to the Employment Security Department.

CONTRACTOR shall supply evidence of such protection in the form of certificates or copies of bonds and policies before planting begins. Bonds shall remain in effect for 120 days after termination of planting.

Independent Contractor

It is agreed that CONTRACTOR undertakes this contract as an independent contractor and shall have full control of work and details thereof to be performed hereunder. As such independent contractor, CONTRACTOR shall comply with all Compensation Law, Social Security Law, the Fair Labor standards Act, Withholding, and any and all other laws and regulations pertaining to employers. CONTRACTOR agrees to bring himself within the terms of the Workmen's Compensation Act in the State of Oregon unless permitted, in writing, by OWNER to carry private employer's liability insurance.

CONTRACTOR will hire only laborers legally present and entitled to work in the United States. CONTRACTOR agrees to cooperate with the immigration and Naturalization Service, by providing INS, at its request, with payroll data and a list of employees, their birth dates, and their social security or "green card" numbers. Any refusal by CONTRACTORS to cooperate with the INS or any willful hiring by CONTRACTOR of laborers not legally entitled to work in the United States will be grounds for immediate termination of this agreement. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages.

Insurance Coverage

The CONTRACTOR agrees to indemnify and save and hold harmless the OWNER, its officers, agents, and employees, from any and all aliens, claims, liability, or damages for acts of commission, omission, or negligence on the part of said Contract, its subcontractors, agents, and employees, arising or growing out of the performance, malperformance, or nonperformance of any part of this contract.

CONTRACTOR shall, at his/her own expense, obtain and maintain public liability (bodily injury) and property damage insurance with limits as follows:

- a. Bodily injury liability, automobile
\$500,000 each person
\$1,000,000 each accident
- b. Bodily injury liability, except automobile
\$500,000 each person
\$1,000,000 each accident
- c. Property damage liability
\$1,00,000 each accident

Insurance furnished by CONTRACTOR shall include coverage against: Liability for all business operations; liability for products or completed operations; contingent liability for activities of subcontractors; vehicle liability. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to the OWNER prior to any change or cancellation shall be furnished to the OWNER before planting begins.

CONTRACTOR shall comply with the Oregon Workman's Compensation Law and, if state coverage of employees is rejected, shall maintain private insurance providing sufficient employee compensation benefits and providing employer's liability insurance with limits of not less than \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to two or more persons in one occurrence, such insurance to be evidenced by certificates in the same form as required in this agreement for CONTRACTOR'S general liability insurance.

Assignment

CONTRACTOR shall not sublet, transfer, or assign this contract or any part thereof, without the prior written consent of OWNER. Such consent shall not relieve CONTRACTOR of any liability or responsibility hereunder.

Project Alteration

OWNER may increase, decrease, or alter work to be done and materials furnished hereunder. Any changes occasioned thereby in amounts to be paid hereunder shall be agreed to in writing prior to performance of such work or of furnishing such material. CONTRACTORS shall make no claim for extra work or extra materials unless so agreed to. All work or materials furnished hereunder shall at all times be subject to the inspection and approval of OWNER.

Contractor Cleanup

CONTRACTOR shall remove all excess materials, lunch wrappers, etc., daily. Upon completion of the unit, CONTRACTOR will remove all worn out tools and rubbish.

Contractor Rights and Responsibilities

Failure of CONTRACTOR to proceed promptly in a workmanlike manner within the required time, or to maintain an agreed-upon schedule, and failure of CONTRACTOR to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Failure of CONTRACTOR to employ only those legally present in the United States and failure to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages for any loss sustained. CONTRACTOR shall comply with all public laws, ordinances, and requirements respecting the work, obtain all required permits, and comply with regulations of any insurance company which issues a policy on any part of the work or site. CONTRACTOR shall acquaint him/herself with limits of the property or right-of-way of OWNER'S operations.

The failure of OWNER to assert any of its rights hereunder shall not be construed as a waiver thereof.

As to the terms and conditions of employment, including, but not limited to, hiring, promotions, wages, hours, fringe benefits, CONTRACTOR will not discriminate against any person on the basis of race, creed, religion, sex, or national origin.

CONTRACTOR shall at all times indemnify and hold harmless OWNER from any liabilities, causes of action, damages, claims, or demands that may arise from or be incident to the work to be performed hereunder by CONTRACTOR, CONTRACTOR'S employees, or agents.

CONTRACTOR acknowledges that OWNER is under no obligation to extend or renew this contract at the expiration hereof, or to award or offer CONTRACTOR other or additional contracts or work. CONTRACTOR is not relying on any representation or promises other than those specifically set forth herein.

Signed and sealed in duplicate this _____ day of _____, 20____.

CONTRACTOR

By: _____
(signature) (print name)

OWNER

By: _____
(signature) (print name)

Exhibit "A"

Units and prescription of application:

Special instructions:

Payment shall be on the basis of \$ _____ per acre or \$ _____ per designated unit.

Foliar spray will be applied at the mix rate of _____% (herbicide) and _____% (sticker).

Hack and Squirt will be applied at the rate of _____/ _____ (herbicide and water) and _____ per _____ inches of wood; for clumps, all four quadrants and _____% of stems must be treated.

OWNER will deliver herbicides as close as the nearest rock road. CONTRACTOR will be responsible for getting water to the units.

NO trash is to be left on OWNER'S property.

ACRES TO BE TREATED ARE ESTIMATIONS AND NOT GUARANTEES.

Appendix 8: Sample Pre-Commercial Thinning Contract

This AGREEMENT is made this _____ day of _____, 20____ between:

(Woodland owner name and address)

herein called OWNER, and:

(Contractor name and address)

herein called CONTRACTOR.

Permits and Responsibilities

Before work starts, CONTRACTOR will designate, in writing, the person or persons who will represent and act for him in his absence from the job and will describe the areas of responsibility assigned to his representative.

Crew Supervision and Size

A maximum of xx (xx) and a minimum of x (x) thinners will be allowed at the job site. One English-speaking supervisor shall be provided at all times. In no instance shall more than xx (xx) or less than x (x) thinners be working on the job site unless authorized by the OWNER.

Period of Contract

The job will begin _____ (date) and the job will be completed before _____ (date) unless otherwise authorized by the OWNER.

Suspension of Work

The OWNER may suspend work contract specifications are not being met. Work will resume again when specification problems have been corrected in the opinion of OWNER.

Specifications

Tree Selection

1. For crop trees, selection will be according to the following order of preference:
 - Douglas-fir
 - Grand fir
 - Ponderosa pine
 - Western hemlock
 - Incense cedar
 - Red alder
2. The best trees available occurring within the desired spacing interval will be saved for crop trees.

Desirable characteristics of crop trees are:

- a. Healthy trees of good color and vigor – disease and injury free.
- b. Trees in dominant or co-dominant position in the canopy; larger trees.
- c. Trees with straight stems, single leaders, full crowns, without breaks, bends or other injuries.

Spacing

The ideal distance between crop trees will be _____ feet. On a practical basis, it may be desirable to leave crop trees at spacing ranging from _____ feet to _____ feet, to select the most desirable trees. There are two exceptions to the above spacing criteria:

1. Where there are natural openings over _____ feet across, trees may be left a minimum of _____ feet apart just around the edge of the openings. As a rule, never increase the size of a large opening.
2. In areas of pure hardwoods under _____-inch DBH, spacing between hardwoods will be _____ feet. Areas of pure hardwood greater than _____-inch DBH will not be entered.

Cutting

1. All non-crop trees greater than _____ foot in height will be cut below the lowest live limb.
2. Cut trees may not be left standing or leaning against crop trees.
3. There will be no cutting of conifers greater than _____-inch DBH.
4. Bigleaf maple clumps (from stump sprouting) will be thinned to a single stem when selected as a crop tree. Otherwise, they will be cut completely. Criteria for selecting which stem to leave will be dominance of the stem in the clump, straightness and vertical orientation of bole, and minimal interference with adjacent crop trees.
5. All hardwoods will be cut unless selected as a crop tree. Cascara will be considered a brush species.
6. Girdling of hardwoods (particularly those greater than _____-inch DBH) shall be substituted instead of cutting if the felling of such trees would result in serious damage to crop trees. Trees selected for girdling will be girdled twice with cuts extending at least ½ inch into the tree's bole. Cuts will encircle the bole completely. Cuts will be a minimum of 4 inches apart and the upper cut will be a maximum of 2 feet off the ground. Trees will not be girdled where they could eventually fall into driveable roads.

Road Clearing

Road surface and ditches of all designated roads will be cleared daily of felled material and will be subject to inspection and correction if necessary prior to final payment and completion of contract. Where designated for fire safety, roads will be cleared at minimum from top of cut slope to the top of fill slope.

Payment

The parties understand rates to be paid to the CONTRACTOR are _____% or \$ _____/MBF of the value of the logs paid by the log buyer. OWNER agrees the log buyer (may/may not) directly pay CONTRACTOR their share of the proceeds.

Work will be regularly inspected by OWNER. Payment will not be made until approved completion of all work. OWNER will pay CONTRACTOR within fifteen (15) days of receipt of invoice.

Bond or Cash Deposit

CONTRACTOR is required by the OWNER to post bonds, or cash deposits, in the amount of \$ _____ to assure the following:

1. Guarantee of CONTRACTOR performance
2. Payment of CONTRACTOR'S employees
3. Payment of any subcontractors
4. Satisfaction of obligation to the Department of Labor and Industry and to the Employment Security Department.

CONTRACTOR shall supply evidence of such protection in the form of certificates or copies of bonds and policies before planting begins. Bonds shall remain in effect for 120 days after termination of planting.

Independent Contractor

It is agreed that CONTRACTOR undertakes this contract as an independent contractor and shall have full control of work and details thereof to be performed hereunder. As such independent contractor, CONTRACTOR shall comply with all Compensation Law, Social Security Law, the Fair Labor standards Act, Withholding, and any and all other laws and regulations pertaining to employers. CONTRACTOR agrees to bring himself within the terms of the Workmen's Compensation Act in the State of Oregon unless permitted, in writing, by OWNER to carry private employer's liability insurance.

CONTRACTOR will hire only laborers legally present and entitled to work in the United States. CONTRACTOR agrees to cooperate with the immigration and Naturalization Service, by providing INS, at its request, with payroll data and a list of employees, their birth dates, and their social security or "green card" numbers. Any refusal by CONTRACTORS to cooperate with the INS or any willful hiring by CONTRACTOR of laborers not legally entitled to work in the United States will be grounds for immediate termination of this agreement. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages.

Insurance Coverage

The CONTRACTOR agrees to indemnify and save and hold harmless the OWNER, its officers, agents, and employees, from any and all claims, liability, or damages for acts of commission, omission or negligence on the part of said Contract, its subcontractors, agents, and employees, arising or growing out of the performance, malperformance, or nonperformance of any part of this contract.

CONTRACTOR shall, at his/her own expense, obtain and maintain public liability (bodily injury) and property damage insurance with limits as follows:

- a. Bodily injury liability, automobile
\$500,000 each person
\$1,000,000 each accident
- b. Bodily injury liability, except automobile
\$500,000 each person
\$1,000,000 each accident
- c. Property damage liability
\$1,00,000 each accident

Insurance furnished by CONTRACTOR shall include coverage against: Liability for all business operations; liability for products or completed operations; contingent liability for activities of subcontractors; vehicle liability. Certificates evidencing such insurance and bearing endorsements requiring thirty (30) days written notice to the OWNER prior to any change or cancellation shall be furnished to the OWNER before planting begins.

CONTRACTOR shall comply with the Oregon Workman's Compensation Law and, if state coverage of employees is rejected, shall maintain private insurance providing sufficient employee compensation benefits and providing employer's liability insurance with limits of not less than \$500,000.00 for injury to one person, and \$1,000,000.00 for injury to two or more persons in one occurrence, such insurance to be evidenced by certificates in the same form as required in this agreement for CONTRACTOR'S general liability insurance.

Assignment

CONTRACTOR shall not sublet, transfer, or assign this contract or any part thereof, without the prior written consent of OWNER. Such consent shall not relieve CONTRACTOR of any liability or responsibility hereunder.

Project Alteration

OWNER may increase, decrease, or alter work to be done and materials furnished hereunder. Any changes occasioned thereby in amounts to be paid hereunder shall be agreed to in writing prior to performance of such work or of furnishing such material. CONTRACTORS shall make no claim for extra work or extra materials unless so agreed to. All work or materials furnished hereunder shall at all times be subject to the inspection and approval of OWNER.

Contractor Cleanup

CONTRACTOR shall remove all excess materials, lunch wrappers, etc., daily. Upon completion of the unit, CONTRACTOR will remove all worn out tools and rubbish.

Contractor Rights and Responsibilities

Failure of CONTRACTOR to proceed promptly in a workmanlike manner within the required time, or to maintain an agreed-upon schedule, and failure of CONTRACTOR to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Failure of CONTRACTOR to employ only those legally present in the United States and failure to remedy such conditions within two (2) days' notice from OWNER shall constitute a default hereunder. Any action taken by OWNER to remedy such default shall be without prejudice to OWNER'S remedies for damages for any loss sustained. CONTRACTOR shall comply with all public laws, ordinances, and requirements respecting the work, obtain all required permits, and comply with regulations of any insurance company which issues a policy on any part of the work or site. CONTRACTOR shall acquaint him/herself with limits of the property or right-of-way of OWNER'S operations.

The failure of OWNER to assert any of its rights hereunder shall not be construed as a waiver thereof.

As to the terms and conditions of employment, including, but not limited to, hiring, promotions, wages, hours, fringe benefits, CONTRACTOR will not discriminate against any person on the basis of race, creed, religion, sex, or national origin.

CONTRACTOR shall at all times indemnify and hold harmless OWNER from any liabilities, causes of action, damages, claims, or demands that may arise from or be incident to the work to be performed hereunder by CONTRACTOR, CONTRACTOR'S employees or agents.

CONTRACTOR acknowledges that OWNER is under no obligation to extend or renew this contract at the expiration hereof, or to award or offer CONTRACTOR other or additional contracts or work. CONTRACTOR is not relying on any representation or promises other than those specifically set forth herein.

Signed and sealed in duplicate this _____ day of _____, 20 ____.

CONTRACTOR

By: _____
(signature)

(print name)

OWNER

By: _____
(signature)

(print name)

**This information is provided for educational purposes only.
If you need legal advice, please consult a qualified legal adviser.**

Trade-name products and services are mentioned as illustrations only. This does not mean that the Oregon State University Extension Service either endorses these products and services or intends to discriminate against products and services not mentioned.

© 2014 Oregon State University.

Extension work is a cooperative program of Oregon State University, the U.S. Department of Agriculture, and Oregon counties. Oregon State University Extension Service offers educational programs, activities, and materials without discrimination based on age, color, disability, gender identity or expression, genetic information, marital status, national origin, race, religion, sex, sexual orientation, or veteran's status. Oregon State University Extension Service is an Equal Opportunity Employer.

Revised January 2005. Revised July 2014.
