

AGREEMENT FOR THE SALE OF STANDING TIMBER

Woodland Name, Location

Agreement made on the ___ day of _____ Year

Between;

- 1) **The Owner:** **Community Woodland Company** (Seller) and
- 2) **The Agent/Contractor:** **Name of harvesting agent/sawmill** (Buyer)

The Seller has offered through tender to sell, and the Buyer offered to buy all of the trees described in Part 1 of the annexed First Schedule and 1 of the Second Scheduled at the prices as specified in Part 2 of the First Schedule and subject to the following conditions:

The Buyer agrees

1	To pay the purchase price for the trees specified in 1 of the annexed Second Schedule as per the price per tonne listed for each category of tree product in Part 2 of the First Schedule, and in accordance with the terms in Part 3 of the First Schedule;	Payment
2	To remove the trees so purchased (as identified in Part 1 of the First Schedule);	Removal
3	To cut-up and lay flat on the site all lop and top and other non-market tree product, and ensuring all water courses and rides are kept clear, and as described in the Second Schedule;	Site clearance
4	To remove all the trees as specified above and clear the site by (date) , to include all marketable trees and timber produce unless otherwise identified in advance by the Seller. To remove all timber at the loading area (as described in schedule 5) and leave tidy by (date) ;	Completion of work
5	To pay for marketable trees and timber produce left on the site at the appropriate rates listed in Part 2 of the First Schedule;	
6	To indemnify the Seller together with their respective employees, agents and others for whom they are responsible in law against claims of loss arising from all avoidable damage or neglect caused through or arising out of the felling, removal and site clearance of trees in this Agreement;	Damage caused by agreed works
7	To satisfy the Seller that they (the Buyer), during the whole of the period of this contract are covered by insurance in respect of their liability to third parties and for injury to the Seller's employees and property for the sum of not less that £5,000,000 and shall on request produce for inspection by the Seller the policy and premium receipts;	Insurance
8	To comply with all statutory obligations, and in particular to carry out all operations within the requirements of the Health and Safety at Work Act 1974 and The Management of Health and Safety at Work Regulations 1992. All plant used in the execution of this agreement will be of a good and serviceable condition and will comply with all the regulations pertaining to it, in particular, the Lifting Operations and Lifting Equipment Regulations 1998 and the Provision and Use of Work Equipment Regulations 1998. All operatives involved in the execution of this agreement will hold the relevant certificates of	Health & Safety

	<p>competence, have the appropriate training and experience and be instructed as to the method of working. All work will be carried out in accordance with FISA Safety Guides and The UK Forestry Standard. In the event of failure to comply with these Acts, Regulations, Guides and Standards the Seller reserves the right to stop the Buyer from working on the site without paying compensation for any loss so caused. For the purposes of this agreement the Buyer is considered to be the Forest Works Manager and the Seller is considered to be the Landowner as defined in the Health and Safety Executives' 'Managing Health and Safety in Forestry' document INDG294 5/99 C150.</p> <p>The Buyer shall provide copies of their insurance certificates, certificates of competence, including those of relevant subcontractors, together with a risk assessment for the site, a spillage plan, Company Health & Safety Policy and Company Environmental Policy.</p> <p>The Buyer will ensure compliance with the Reporting Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR).</p> <p>The Buyer and their contractor will attend a pre-commencement site-meeting to discuss the order of working, provision for Health & Safety and Welfare and to agree the Site Safety Rules</p> <p>The Seller will ensure that warning signs and precautionary measures pertaining to site hazards are in place throughout the operation.</p> <p>The Buyer will provide and maintain the appropriate Timber Harvesting warning signs at operational sites and entrances for the duration of the contract operations;</p>	Signs
9	To make good in a workmanlike manner to the satisfaction of the Seller any gaps made in dykes, hedges and fences caused by the felling or removal of the aforementioned timber. This particularly relates to the stock, rabbit and deer fences around the woodland as marked on the annexed map;	Fences
10	Not to fell any tree not included in this sale without the written permission of the Seller. On any breach of this condition the Seller may terminate the Agreement forthwith without paying compensation for any loss so caused and without prejudice to all accrued rights of action by the Seller and/or the Principal against the Buyer;	Felling trees not in the sale
11	<p>Not to re-sell the timber purchased under this Agreement while the timber is standing, or part with possession of felled timber while still on the site, to a third party, or sub-let contracts for cording of lop and top and the burning of brushwood without the written consent of the Seller; such consent not to be unreasonably withheld.</p> <p>To remain bound by the terms of the Agreement in the event of any re-sale or sub-contract, and to take all necessary steps to ensure that any sub-purchasers or sub-contractors shall be bound by and subject to the terms of this Agreement (save by Clause 1 of these Conditions) in the same manner and to the same extent and as if they were the Buyer in this Agreement, and the Buyer shall be responsible for any acts or omissions or any non-compliance with the terms of this Agreement by any sub-purchasers or sub-contractors their servants or agents, as if they were the Buyer in this Agreement;</p>	Re-selling & sub-contracts

12	That in the event of the timber produce extracted to roadside not being removed by the date set out in the Clause 4 of this Agreement to become liable to a penalty of Fifty Pounds (£50.00) per week for every week or part of a week such timber or part thereof remains on Rothiemurchus after the aforesaid date, such penalty to be as liquidated damages, unless due to bad weather an extension of the completion date is mutually agreed in writing. The Buyer expressly acknowledges that the amount of such penalty accurately reflects a reasonable estimate of loss which would be sustained by the Agent and/or the Principal, in the event of a breach of said clause 4;	Failure to complete
13	In the event of any Governmental regulation or departmental order coming into operation or any 'Act of God', strike, lockout or other occurrence of a serious nature beyond the control of the Seller and the Buyer taking place affecting their ability to perform their obligations under the agreement and as a result of which the felling of the trees and/or their removal and sale thereof are delayed or suspended the time limit allowed for in Clause 4 shall be extended for a period equivalent in working hours and conditions to the period of delay or suspension thereby caused and as agreed between the Seller and Buyer acting reasonably;	Force majeure
14	To comply with all reasonable requests the Seller may make with respect to operating conditions detailed in Part 5 of the First Schedule;	Operating conditions
15	That in the event of the purchase price not being paid to the Seller in full within 28 days of the due date (as defined by clause 1 with reference to Part 3 of the First Schedule) the property in both the timber still standing and that which has already been felled but not already removed shall revert to the Seller, and the deposit money (if any) shall be forfeited to them, and the Seller shall be at liberty to re-sell the timber not already felled and removed either by public auction or by private treaty, and the deficiency, if any, together with the expenses attending the re-sale, shall be made good by the Buyer and shall be recoverable as liquidated damages, and any increase of price shall belong to the Seller who shall, in addition, be entitled to recover from the Buyer the proportionate part of the purchase price hereby agreed for so much of the said timber as shall have already been removed by the Buyer. Without prejudice to the generality, if payment of the full purchase price is not made within 28 days of the due date, the Seller shall be entitled to charge interest (both before and after any decree) on the amount unpaid at the rate of five per cent per annum above the Bank of Scotland base rate from time to time until payment in full is made (part of a month being treated as a full month for the purpose of calculating interest);	Failure to pay purchase money
16	<p>To carry out all work in accordance with the Wildlife and Countryside (Scotland) Act 1981 and the Nature Conservation (Scotland) Act 2004. Furthermore, some species (bats, otters and wild cat) are further protected as "European Protected Species" under Regulations 39 and 43 of The Conservation (Natural Habitats &c.) Regulations 1994 and Regulations 10 and 13 of The Conservation (Natural Habitats &c.) Amendment (Scotland) Regulations 2004.</p> <p>That operations will be carried out in accordance with associated or other operational guidelines (e.g. UK Woodland Assurance Scheme & Forestry Guidelines), and particularly in relation to badgers, pine martens, wildcats, woodland grouse, bats and red squirrels.</p>	Wildlife & Conservation

	<p>To comply with any conditions specified in approved Licences to Interfere with Badger Setts or red squirrel dreys. The Seller will make copies of relevant licences available to the Buyer.</p> <p>The Seller will provide information on the presence of these species to the best of their knowledge, but the Buyer must also monitor the site before and during work to locate and safeguard as appropriate any additional dreys, nest sites, roosts or setts;</p>	
17	<p>That in the event of the discovery of some unknown archaeological feature (ruined, or otherwise, man-made stonework such as cairns, circles, burial chambers, standing stones etc) then operations in the immediate vicinity shall be halted and the Seller advised so that damage or disturbance can be minimised and accommodating measures put into practice as soon as possible. The Seller shall inform the Buyer of the existence of any known archaeological sites and features to be found (or likely to be found) either on the work site or adjacent and likely to be affected by operations.</p>	Archaeology
18	<p>To pay a deposit of £2,000 to the Seller prior to the commencement of operations agreed in this contract and that this deposit shall be returned to the Buyer on completion of the contract but shall be forfeited to the Seller if the Buyer or their agents fail to meet the terms and conditions in this agreement or fail to make good any avoidable damage caused by the Buyer or their agents in the execution of this agreement or as agreed by arbitration (Clause 19).</p>	Deposit
The Seller and Buyer agree:		
19	<p>That in the event of any disagreement arising out of the terms of this Agreement the difference shall, unless otherwise agreed, be referred to an Arbitrator to be mutually agreed upon or in default of agreement to two Arbitrators, one Arbitrator to be appointed by the Seller and one by the Buyer. Such Arbitrators shall previously to entering upon the Arbitration appoint an Umpire and the Arbitration shall be subject to the Arbitration Act 1950, or any subsisting statutory modification thereof or substitution. In the event of either party failing to appoint their Arbitrator within 4 weeks after being requested in writing by the other side to do so, then the Arbitrator of the party defaulting shall be appointed as follows:-</p> <p>The Seller's Arbitrator by the President, or failing them, by the Vice-President of the Royal Institute of Chartered Surveyors, the Purchaser's Arbitrator by the President, or failing them, by the Vice President of the Confederation of Forest Industries (CONFOR).</p>	Arbitration
20	<p>That the trees described in the Schedule to this Agreement are believed to be correctly marked and described, and no compensation in respect of error, whether excess or deficiency or mistake in number, description, quantity, or quality, shall be claimed or payable.</p>	Sale description
21	<p>This Agreement shall be governed by Scots law and the parties hereto prorogate the non-exclusive jurisdiction of the Scottish courts.</p>	Law

The First Schedule

Part 1: Location: Location name. Compartments (numbers).
Operation: (Area) ha Clearfell – all trees unless otherwise marked by the Seller, and within the area outlined in red on the attached map

Part 2: Purchase Price

For the full duration of this agreement, the prices (£ per tonne (excluding VAT) for each category of product will be:

Species/category <i>Add/delete as appropriate</i>	Specification <i>Add/delete as appropriate</i>	£ per tonne
Spruce logs	(18cm ob top diameter to 45cm ob butt diameter) 3.7m and 4.2m long	
Douglas fir logs	(18cm ob top diameter to 45cm ob butt diameter) 3.7m and 4.2m long	
Grand fir logs	(18cm ob top diameter to 45cm ob butt diameter) 3.7m and 4.2m long	
Larch logs	(18cm ob top diameter to 45cm ob butt diameter) 3.7m and 4.2m long	
Scots pine logs	(18cm ob top diameter to 45cm ob butt diameter) 3.7m and 4.2m long	
Over-size spruce & Douglas fir logs	(>45cm ob butt diam)	
Over-size grand fir logs	(>45cm ob butt diam)	
Spruce slats	(11cm to 22cm ob top diam) 1.9m long	
Larch strainers		
chipwood	All species mixed, 3m long (>7cm ob)	
Birch firewood		

plus Value Added Tax at the rate currently in force.

Part 3: Payment terms

Sawmill (or other) weigh-bridge tickets must be supplied within one month of uplift and payment made within four weeks (28 days) of invoicing.

Part 4: Certification & Licences

(Location) is covered by the (woodland name) Long-term Forest Plan (dates); Felling Permission (number);

To make the most of the certification, the Buyer will have to have their own chain of custody certification and all invoices and delivery notes should quote:
(certification reference if relevant).

Part 5: Operating Conditions

- a) The Seller will advise the Buyer, before the commencement of the work, of the hazards and constraints associated with the site. Site hazards and constraints will be shown on the Hazards Map;
- b) Only to extract over those tracks and roads marked on the attached plan;
- c) Timber loading area is as shown on the attached plan and described in the Second Schedule;
- d) No fires to be lit;

- e) No litter to be left on site;
- f) To comply with all legislation and guidelines concerning red squirrels, badgers & other protected species;
- g) To comply with all other conditions set out in the attached Second Schedule

And within the following timescale:

Commencement Date:

Completion date / period: (date by which all purchased timber to be removed from roadside)

The Second Schedule

1) Compartment and tree description

(insert table)

These quantities are indicative and the Buyer must satisfy themselves of the estimated quantities of timber that the site will yield.

Constraints and trees to be retained for conservation objectives, or to act as seed trees for future regeneration will be marked by the seller with red and white barrier tape.

The boundaries of the clear fell will be marked by the existing deer fences and by white tape tied to trees (to be left standing) where there is no fence line.

2) Access

Lorries can access the harvesting site via the

There is a hard-standing at grid ref. (grid ref) where lorries can load. Timber hauliers will not exceed the Maximum Gross Vehicle Weight for the vehicle configuration used.

The access point, stacking & loading area and the extraction routes are shown on the attached map.

The Buyer must comply with any conditions imposed by (Local Authority) Community Services Dept. in relation to the use of public roads.

The Seller to maintain the road in a condition useable by HGV and the Buyer to avoid damaging the road by driving on it with harvesting machines. Any forwarder crossing points across the access road must be reinforced by the buyer with metal sheet or appropriate plastic armour.

3) Placement of lop and top

Lop and top is to be used to reinforce machine access racks and shall be left on site. Lop and top must be removed at least 5 m from all water courses and removed from drains. Lop and top must also be moved at least 3m back from the boundary fence and the line of the proposed new stock fence (as marked on the attached map). Future rides and existing 4x4 access tracks must be left clear of lop and top to a width of 5m

4) Stump Treatment

Urea stump treatment is to be used by the Buyer's contractors and appropriate supplies of urea will be provided by the Seller.

5) Fuel, lubricants, storage, and machine maintenance

Machines working in the forest will operate using biodegradable oils where practical.

Fuel & oil storage, refuelling & machine maintenance will be at designated sites only; at least 10m from all watercourses. Fuel & oils will be stored in tamper-proof, double-skinned or banded tanks. Fuel will be pumped by closed transfer system from the storage tank direct to the machine fuel tank **(there will be no storage or movement of fuel/oil using plastic containers)**. Care will be taken to check that pipes do not drip fuel or oil onto the ground.

Suitable oil and fuel spillage kits will be carried by all machines and be located at maintenance and storage areas. Operators will carry copies of fuel spillage plans will take the appropriate course of action immediately in the event of oil or fuel spillage, including notifying SEPA & the Seller.

6) Waste

Efforts will be made to reduce waste. All waste and litter must be removed from the site and recycled or disposed of by a licensed waste disposal contractor as appropriate.

7) Water

The Seller will notify the Buyer of the presence and location of public or private, domestic or commercial water supplies. Exclusion zones will be applied.

The Buyer will accept the responsibility for complying with the provisions of the Control of Pesticide Regulations (1986) and Control of Substances Hazardous to Health Regulations (1988).

8) Wildlife

Known setts, dens, nest and drey locations will be marked by the Seller and these trees and associated groups of trees to be left standing until the breeding period has finished, or otherwise under licence secured by the Seller. Other wildlife breeding sites may not be known and marked in advance and the Buyer, their contractors and sub-contractors will operate in accordance with Clause 16 of this contract and Condition 5f of the First Schedule. Site operatives to notify the Seller of any wildlife breeding sites newly identified during harvesting.

9) Archaeology

Field clearance cairns and old dry-stone wall/turf dyke to be kept clear of lop and top, and to be avoided by machines; except where existing gaps in the dyke allow machine access.

IN WITNESS whereof these presents consisting of this and the seven preceding pages (to include the First and Second Schedules) are executed for and on behalf of the Seller and of the Buyer as follows:

Signed on behalf of the Buyer

Signed on behalf of the Seller

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For *(name of company)*

For *(name of community woodland company)*

Date.....

Date.....