

Timber Contract

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If you own timber, it is inevitable that at some point in your ownership a timber sale will take place. The sale of timber can be a pleasant income earning opportunity or it can be a nightmare. The success or failure of a timber sale can all depend on how well your timber sale contract is written.

It is highly encouraged that all first time timber sellers and those who only sell timber occasionally use a registered consulting forester. A registered consulting forester will have the knowledge and experience to guide you as a landowner throughout the design and implementation of your timber contract. A registered consulting forester will also oversee the logging operation throughout the harvest and sale of your timber. This relieves the burden of the landowner from worrying if everything is going according to the contract specifications. A list of registered consulting foresters for your area can be found on the South Carolina Forestry Commission's website.

Whether you are using a registered consulting forester or handling the timber sale yourself, there are several things you will need to consider when developing your timber sale contract.

Contract Dates, Names, and Addresses of all parties involved

You will want to specify a start date and an end date for your contract. You may want to include any provisions due to weather and any fees or extension requirements if the deadline is not met. You will also want to ensure that you have the names and addresses of all parties involved. This is especially important when you are dealing with family tracts that may have multiple people involved.

Tract Location

A legal description of the tract should be included as well as a description of access points. There should be a harvest map included that shows the following:

- boundaries of the property
- area to be harvested
- placement of logging decks and logging roads
- creek or stream crossings
- any other sensitive areas (such as old home sites, grave sites, food plots, etc)

Type of Payment:

There are two types of payment involved in a timber sale contract. The simplest form of payment is called a Lump Sum. In a lump sum contract, the landowner and timber buyer negotiate upfront a set price for the timber that will be harvested. With the lump sum contract the seller or landowner will typically receive full payment prior to any trees being harvested.

The other type of payment is Per Unit. Per unit contracts are an agreed upon price set per unit of timber cut. When doing a per unit contract it is essential to set your price based on specific timber type (sawtimber, pulpwood, chip-n-saw, etc.) and define what exactly constitutes a unit. Typically wood is measured either in per ton or per thousand board foot (MBF) of wood that is cut. The amount of wood harvested is reconciled using the load tickets generated by the mill. Per unit contracts generally result in the seller being paid as their timber is cut week by week or whatever parameters are agreed on.

There are advantages and disadvantages to both types of payment. Discussing your goals and options with a certified registered forester can help to ensure that your contract is set up to best meet your financial needs.

Type of Harvest

You will want to specify in your contract the type of timber harvest to be performed. Are you looking to have your timber first thinned, second thinned or clear cut? Talking with a registered consulting forester will help you to determine what type of harvest is best for your stand of timber. Once you determine the type of harvest, you may need to specify how trees are removed for harvest (such as marked timber). If your timber is part of a USDA-Natural Resource Conservation Service (NRCS) contract, there may be a target basal area that needs to be met, having that clearly stated in the contract would be helpful.

Best Management Practices

It is always important to state that the logger must follow the South Carolina Forestry Commission Best Management Practices (BMP) before, during, and after the harvest. Within the BMP guidelines there are also rules for logging around Streamside Management Zones (SMZ). A copy of the BMP book can be found at your local South Carolina Forestry Commission office or your local Clemson Extension office.

Penalties

A timber contract needs to have all the various penalties clearly stated, such as cutting past boundaries, replacement of destroyed items such as gates, roads, culverts/pipes, etc. Often times when issues arise, it is wise to have someone designated as a third party to help settle disputes. It is also wise to cover such issues as fire protection and natural disasters should something happen to the timber during the contract period.

Conclusion or Summary

These are just a few of the basic things that you will want to ensure are included in your timber sale contract. As previously mentioned, hiring a registered consulting forester to advise you and oversee your timber sale can be very beneficial. Another professional that is wise to have is a forest taxation expert. A forest tax expert can help direct you in depreciating your timber sale income

through forest management expenditures. This will help you reduce any possible tax burden. There are some accountants who are specialized in this area of taxation. Clemson University has professors on campus who may be able to help you find an accountant in your area or at least give you current information regarding timber taxation. Also, having an attorney who is familiar with timber harvest contracts is another great asset to have. The attorney can ensure that the best interests of both parties are represented. They are also generally needed in case any dispute arises between the parties.

Timber contracts are legally binding agreements between both the timber buyer and the seller. By using the information and resources outlined in this document, hopefully your timber sale will be a positive and financially rewarding experience.

Additional Resources

List of Certified Consulting Foresters-
<http://www.state.sc.us/forest/scconsult.pdf>

Sample Timber Contract-
<http://www.state.sc.us/forest/forestsaleagreement.pdf>

South Carolina Forestry Commission Best Management Practices- <http://www.state.sc.us/forest/refbmp.htm>