

EXTENSION NOTES



SELLING STANDING TIMBER

Managing a woodlot can provide landowners with many benefits — all at the same time. You can grow more valuable wood products faster, improve wildlife habitat and increase the diversity and overall health of the forest ecosystem. When the time comes to harvest your trees, you'll need to sell your timber to a logger and ensure that the trees are harvested in ways that improve the long-term health and commercial value of your woodlot.

This Extension Note provides information on how to plan the harvest and how to sell your standing timber. It also provides a sample Timber Sale Agreement that you can adapt to reflect your unique situation and needs.

DEVELOP A MANAGEMENT PLAN FOR YOUR WOODLOT

If you don't already have one, you should consider developing a management plan for your woodlot. Forests are complex ecosystems that contain many life forms — trees, shrubs, herbs, birds, mammals, amphibians, reptiles, insects, micro-organisms, mosses, lichens, fungi and many others. And each life form is linked to other life forms and to the air, the water and the soil. If you are going to take wood from the forest over the long term, you'll need to harvest in ways that sustain these complex relationships and the commercial productivity of the forest. A management plan will help you do this.

After you have established the goals of your management plan, select the silvicultural system that best suits the forest region in your area, your particular site and the species you want to cut and regenerate. Silvicultural systems are ways of promoting the growth of new forests, tending the developing forest and harvesting mature trees.

The selection system is often the best choice for hardwood forests in southern Ontario. It removes individual or small groups of trees in 10- to 20-year intervals and

encourages the growth of a healthy, diverse forest, with trees of all ages. It can also increase wildlife habitat and the value of future wood products.

In the past, loggers took the trees with the highest commercial value and left defective trees and species of lower commercial value to grow and to regenerate the forest. Called high grading, this approach generated the greatest immediate returns. But it reduced the health and future commercial value of the forest.

Today, we harvest a mix of high and low value trees. This kind of selective



harvest opens up the forest to give the remaining high-value trees the sunlight and the room they need to grow and achieve their greatest commercial potential. The sunlight also stimulates natural regeneration. Leaving trees of all species ensures that there will be sources of seed to regenerate a diverse forest.

If you choose the selection system, your management plan should provide details on:

- The tree species you want to grow as future “crop” trees
- The tree species you want to retain as seed trees to naturally regenerate the site
- The tree species and features you want to retain for their value to wildlife
- The timing and size of future harvests

MARK THE TREES FOR HARVEST

Select the trees that you want to harvest and the crop trees that you want to grow for the future. See Extension Note *Promoting a Health Forest Through Tree Marking*. Pay attention to the density of the stand, taking care not to thin the stand too much. Thinning encourages the more valuable trees to grow to a commercial size in less time. But if too many trees are removed, new branches may sprout along the stems of remaining trees, reducing their commercial value. See Extension Note *Managing Young Hardwood Stands for Sawlog Production* for information on stocking rates and crop tree selection.

Developing an effective management plan is a complex task. For help with your plan, as well as advice on marking trees and estimating the volume of wood for sale, contact your nearest office of the Ministry of Natural Resources, your local conservation authority or an independent forestry consultant.

See the Extension Note *Choosing a Silviculture System* for more details on which system will suit your forest’s condition and your management objectives.

In Ontario, we place two strokes or spots of yellow paint on trees to be harvested. Mark each tree at eye level to make the tree easy for loggers to see. Place a second mark at the base of each tree, just above the ground. As you inspect the harvest operation, this mark will help you ensure that the loggers have cut the correct trees.

Mark the trees you don’t want to harvest or damage at this time with blue paint. Mark your property boundary with red paint.

ESTIMATE THE VOLUME OF WOOD

Determine the number, species and size of the trees marked for harvest. Then use the Ontario Log Rule (Form Class #79) to estimate the volume of wood to be sold.

The Ontario Log Rule volume table is available from forestry consultants or the Ministry of Natural Resources.

CONTACT LOGGERS

Ask the staff of the Ministry of Natural Resources in your area for a list of local loggers who might want to buy the timber on your land. Then call or write the loggers about the details of your timber sale. Their level of interest will depend on the

amount and value of the timber to be sold and the market for those products. If several loggers show an interest, competitive bidding could give you the highest return.

SELECT A LOGGER

Look for a logger who makes protection of the forest ecosystem a priority. Some loggers may be able to help you design landings, skid trails, stream crossings and roads that reduce the potential of damage to your crop trees and woodlot. Ask the loggers about their logging methods. Careful loggers leave harvestable trees standing along skid trails until all the other trees have been harvested. These trees

are damaged by the harvest, but they protect the other trees in the forest from damage. In some areas, they also cut trees to create protective barriers. Before accepting offers, visit properties that the loggers have recently logged and discuss their performances with the landowners.

NEGOTIATE A TIMBER SALE AGREEMENT

When you have chosen a logger and agreed to the terms and conditions of sale, you should develop a formal contract called a “Timber Sale Agreement.” A signed contract is important, even if you are selling a small amount of wood. It protects your personal interests and legal rights, as well as those of the logger. It also addresses liability for accidents, damage and other important concerns.

If you use the sample Timber Sale Agreement in this Extension Note as a guide, modify it to reflect your preferences and woodlot. A lawyer should assist in the preparation of your final contract. Here’s some background information on each item in the sample agreement.

ITEM I — PAYMENT FOR WOOD SOLD

This item establishes the terms of payment. While there are many options to choose from, the “lump sum” method is fair and protects the interests of sellers and loggers. In a lump-sum agreement, loggers buy all the marked trees and pay the entire fee or a percentage of the fee before the harvest. After the sale, it’s up to loggers to cut the trees within the time limit established in the contract.

It is critical to have an accurate estimate of total volume of the sale when using the lump-sum system. If you are not sure of the volume, it may be better to use the unit-price method, which requires the measurement, or scaling, of the wood after it has been harvested.

ITEM II — ACCOUNTABILITY OF THE SELLER

a. Guarantee of Title

This item assures loggers that you have the right to sell the timber. Purchasing timber is a big investment for loggers. Before you sign, be sure of your right to sell. Check your title to ensure that it is not subject to restrictions. Get the written consent of co-owners. You may also need the consent of mortgage holders or others who have registered encumbrances to the sale and disposition of the proceeds of the trees.

b. Property Boundaries

This item defines your property boundaries for the loggers. Ensure that your neighbors agree to the boundaries. If you have any questions regarding the boundaries of your land, seek professional advice from a lawyer, surveyor or both before entering into a Timber Sale Agreement.

Mark your boundaries with red paint before the harvest.

c. Removing Wood

This item defines the road system and the landings that the logger can use. Road systems include the access roads loggers use to get to a site and the skid trails loggers use to remove the trees. Landings are areas where loggers pile and prepare logs for the mill. The size of a landing depends on the amount of wood to be harvested. Select landing sites that are close to roads. Corners of fields and level areas in a woodlot make good landings. Mark or stake the boundaries of the landings with the logger.

Take the time needed to define these items clearly. Carefully designed roads and landings will reduce the damage to the woodlot caused by harvesting. They can also improve access for recreation after the cut. Draw a map that illustrates the details and attach it to the contract.

The agreement and the map should include:

- Areas that the logger should stay away from, such as buildings, streams or shorelines
- Areas to be logged
- Landings
- Roads and skid trails
- The access point to the property from the nearest public road
- Stream crossings

It’s difficult to describe the exact physical location of a road in an agreement or on a map, without help from a surveyor. You can clarify your expectations by stating in the agreement that the road should not exceed seven metres in width. Mark the road corridor on your property using paint or coloured surveyor’s tape.

ITEM III — ACCOUNTABILITY OF THE PURCHASER

a. Starting Date

This item ensures that the logger will give you the time you need to arrange to be at your woodlot on the day the harvest begins.

b. Expiry Date

This item specifies the expiry date of the contract and helps to ensure that a logger will fulfill the terms of the contract promptly. After the expiry date, you have the right to sell any cut or standing trees on your property. If you choose, you can grant extensions to the expiry date. Be sure to confirm the extension and new expiry date in writing.

- c. Damages to Remaining Trees and the Woodlot**
This item defines the logging practices you expect of the logger and the condition you expect the woodlot to be in after the harvest. Harvesting changes the appearance of a woodlot and causes some damage. However, excessive damage is not necessary.

Skidding (dragging) whole trees can damage a hardwood forest. Before skidding, loggers should remove the tops and cut the trees into logs that are less than five metres in length.

To reduce the danger of fire and to create more natural-looking conditions after the harvest, loggers should cut the branches and other woody debris into pieces that are less than 1.5 metres in length. Slash piles (piles of branches) should be less than one metre in height.

Loggers should remove any trees that have been cut and are “hung up” in other trees. Hung-up trees are trees that got caught in other trees as they fell. They are a serious safety hazard.

- d. Cutting Unmarked Trees**
This item specifies the fee the logger will pay for harvesting or damaging trees that were not marked for harvest. The fee for damaging a tree less than 30 centimetres (12 inches) in diameter should be greater than the maximum value specified in the contract for trees of that size. The fee for damaging a tree greater than 30 centimetres (12 inches) in diameter should be greater than the fee for the most valuable tree in the woodlot.
- This item also specifies that trees that are not marked for harvest, which are damaged or felled, remain the property of the seller and may be disposed of as the seller sees fit.
- e. Damage to Fences, Roads and Property**
This item identifies the features the logger must restore to their original condition. Use this area of the agreement to highlight your concerns. Pay special attention to culverts, fences, ditches and roads that might be damaged during the harvest. It’s a good idea to take pictures of the woodlot before the harvest, particularly the important features. You and the logger should sign each photo. As a precaution, you can ask the logger to give you a certified cheque as a damage deposit that can be returned after the harvest if the logger has fulfilled the terms of the agreement.

- f. Assignment of Contract**
This item specifies that the logger can’t assign the harvesting operation to another operator or subcontractor without your permission. Another logger might disregard the terms of your agreement.

- g. Fire Precautions**
This item deals with fire precautions. Fire is unlikely because the relative humidity in hardwood stands is high and the combustibility of the materials is low. Fire is more likely in conifer plantations. However, loggers should still take precautions. In case of fire, they should phone the local fire department.

- h. Maintaining a Clean Site**
This item details your expectations regarding garbage on the site, during and after the harvest, and the level of sawdust, chips and other debris that can be left behind.

- i. Responsibility for Injury**
This item specifies that loggers are responsible for all injuries to their employees that occur on your property.

- j. Responsibility for Damage to Equipment**
This item specifies that loggers are responsible for all damages to their equipment that occur on your property.

- k. Responsibility for Adhering to Legislation to Protect the Environment**
This item specifies that loggers must adhere to legislation and regulations regarding forestry operations on private land. This includes protection of year-round and intermittent streams that could be regulated by the *Federal Fisheries Act*, the *Lakes and Rivers Improvement Act* and the *Public Lands Act*. It also includes fire permits that may be required under the *Forest Fires Prevention Act*, as well as county or municipal tree-cutting bylaws.

- l. Responsibility for Adhering to Legislation to Protect Employees**
This item specifies that loggers must adhere to all legislation governing employee health and safety.

- m. Liability of the Purchaser**
This item specifies that loggers must carry liability insurance and property damage for themselves, their employees and their equipment (a minimum of \$1,000,000 is recommended). Ask the logger for proof of liability insurance.

ITEM IV — JOINT ACCOUNTABILITY OF THE SELLER AND PURCHASER

- a. Damage to Trees Marked for Harvest**
This item specifies that you are not liable for damages to the trees marked for harvest that might be caused by fires, hurricanes, ice storms, thefts or unexpected causes during the life of the agreement.

b. Delaying the Harvest During Wet Periods

This item gives you the option to stop the harvest when the forest is too wet. During prolonged wet periods, the site, the trees, the trails and the roads are more vulnerable to damage from logging machinery. If you delay the harvest, you should grant the logger an extension to the expiry date equal to the length of the delay.

c. Contract Modifications

This item specifies that modifications to the contract should be clarified in formal agreements that are signed, dated, witnessed and attached to the Timber Sale Agreement.

Modifications, such as an extension of the expiry date, may be needed to deal with unforeseen circumstances.

d. Inspection of Logging Operations and “Stop Work Orders”

This item establishes your right to inspect the cutting operations at any time and to stop the harvest if conditions of the agreement are broken.

e. Arbitrator Clause

This item establishes the process that must be followed in case of disputes.

INSPECT THE CUTTING OPERATIONS

Plan to be close to your woodlot during the harvest. Loggers are more likely to listen to your concerns while the logs are still in the woodlot. Visit your woodlot on the first day of the harvest and inspect it regularly. Check all the stumps for yellow marks to ensure that the trees were supposed to be cut.

If trees without yellow marks were harvested, you should be paid for damages according to the terms of the contract. Look for excessive damage to streams, fences, ditches, trails and roads. After the harvest, check to see that all damages have been repaired and that there are no hung-up trees in the forest.

STOPPING THE HARVEST

You have the right to stop the harvest if conditions in the agreement are broken. To stop the harvest you should first discuss the situation with the logger or contractor, and try to

work out your differences. If this is not possible, stronger methods may be employed, including legal action or contacting the police.

TEND THE WOODLOT AFTER THE HARVEST

After the harvest, look for areas where you can improve the growing conditions for crop trees and natural regeneration. Depending on the site, you may want to cut any damaged trees or poor-quality trees that the logger did not harvest. Let these trees, as well as the tree tops and the branches left

behind by the logger, decompose on the forest floor. They will provide habitat for many forms of life, enrich the soil with nutrients and act as “seed beds” for tree species that germinate in decaying wood.

FOR MORE INFORMATION

For more information on developing management plans for woodlots or selling standing timber, contact your nearest office of the Ministry of Natural Resources.

The following Extension Notes and other resources will assist you in selling standing timber.

- *Managing Young Hardwood Stands for Sawlog Production*
- *Forestry Talk: A Glossary of Common Terms*
- *Choosing a Silviculture System*
- *Restoring Old-Growth Features to Managed Forests in Southern Ontario*

- Staley, R.N. 1991. *Wood . . . Take a Stand and Make it Better*. Ministry of Natural Resources. ISBN 0-7729-5099-7.

- *A Landowner's Guide to Selling Timber. Managing your woodlot for profit and pleasure...* Second edition, October 2004, Ontario Woodlot Association.

SAMPLE TIMBER SALE AGREEMENT

This agreement entered into this day of, 20

between:

..... of
(Seller)

.....
(Address)

hereinafter called the Seller, and

..... of
(Purchaser)

..... of
(Address)

hereinafter called the Purchaser.

Whereas the Seller desires to sell certain designated trees standing and lying on a tract of land owned by him or her located:

Lot(s) Concession(s)

Township Area (hectares) (acres)

County or Regional Municipality

Now, therefore, this contract witnesseth:

- I. The Seller agrees to sell and the Purchaser agrees to buy the trees marked with yellow paint (markings are at or about eye level and below stump height) on the above tract of land for a Total Sum of \$; \$ (25 per cent) payable to the Seller by cash or certified cheque at the time of signing this contract and \$ (75 per cent) payable to the Seller by cash or certified cheque within calendar days of the signing of this agreement or prior to the commencement of logging operations, whichever comes first.

Title to felled trees shall pass to the Purchaser upon removal of the felled trees within the time provided for in subparagraph III.(b). Notwithstanding the ownership of the felled trees, the Purchaser shall assume the risk of theft or destruction of the felled logs immediately upon the cutting and felling of the trees.

II. The Seller further agrees:

- a. To guarantee title to the forest products covered by this contract and to defend it against all claims at his or her expense.
 - b. To ensure property boundaries are clearly defined or marked, prior to the commencement of cutting.
 - c. That the Purchaser and his employees are hereby granted a licence to enter onto the woodlot with necessary vehicles and equipment for the purpose of exercising the rights and carrying out the obligations of the Purchaser under this agreement. The Purchaser shall have access to the woodlot by the route described below. The Purchaser shall be responsible for any costs associated with making the route accessible for the required machinery and equipment.
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The Purchaser will be allowed space for the purpose of loading trucks at the following location(s):

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III. The Purchaser further agrees:

- a. To notify the Seller by telephone, or in writing, at least 72 hours before the commencement of the logging operations.
 - b. To cut and remove such timber from the above lands by the _____ day of _____, 20____. After this date, all rights conferred upon the Purchaser to remove trees, cut or standing, from the lands, terminate and thereafter the Seller may dispose of any trees, cut or standing, remaining on the lands, as the Seller sees fit.
 - c. To fell and remove the marked trees in such a manner as will minimize damage to the unmarked trees. All logs will be skidded in lengths not exceeding _____ metres (five metres or 17 feet is recommended) and any severed or partially severed marked trees hung-up in unmarked trees will be pulled to the ground daily. Slash piles will not exceed _____ metre(s) (one metre is recommended) in height.
 - d. To pay to the Seller as liquidation of damages and not as a penalty the following amounts for each tree felled or unnecessarily damaged that is not marked with yellow paint:
 - i) \$_____ for trees with stump diameters less than 30 centimetres (12 inches), and
 - ii) \$_____ for trees with stump diameters greater than 30 centimetres (12 inches).Such trees remain the property of the Seller to be disposed of as the Seller sees fit.
 - e. To restore to their condition prior to the commencement of this agreement all fences, roads, trails and structures damaged during logging operations carried out by the Purchaser on the Seller's property. In addition:
.....
.....
.....
.....
 - f. Not to assign this agreement to a third party, in whole or in part, or employee subcontractors, without the written consent of the Seller.
 - g. To take reasonable precautions against the outbreak of fire on the woodlot and in the event of the outbreak of fire to take immediate steps to suppress it.
 - h. That no garbage will be left on the property or landing during or after the operations and that no logging debris will be left on the landing after the operations has been completed.
 - i. To indemnify and save harmless the Seller from and against all claims, demands, loss, costs, damages, actions, suits or other proceedings by whomsoever made, brought or prosecuted for any damage or injury to persons or property that occurs in the carrying on of the operations of the Purchaser under this agreement or by any neglect or malfeasance on the Purchaser's part or on the part of persons employed by him/her or under his/her control.
 - j. That the Seller is released from any and all claims for injury or damage to property, however caused, which may be sustained by the Purchaser or his employees while carrying out operations on the woodlot under this agreement.
-

- k. To comply with any municipal, provincial or federal bylaws, statutes or regulations relating to the carrying out of the Purchaser's operations on the woodlot.
- l. To comply with all the requirements of the *Worker's Compensation Act*, the *Occupational Health and Safety Act* and other applicable acts.
- m. To carry adequate personal liability and property damage insurance for the Purchaser, the Purchaser's employees and the Purchaser's equipment while working at and removing timber from the property. On the request of the Seller, the Purchaser shall provide written proof of such insurance prior to the commencement of work on the Seller's lands.

IV. The Seller and the Purchaser further agree:

- a. That the Seller shall not be liable to the Purchaser in the event of loss or damage to marked trees either standing or cut, however caused.
- b. That upon the request of the Seller, logging operations may be ceased during prolonged wet periods in order to lessen damage to the site. In the event of a postponement, the expiry date of this agreement shall be extended for a period of time equal to the time lost due to such delay.
- c. All modification of this contract will be reduced to writing, dated, signed and witnessed and will be attached to this contract.
- d. That the Seller or his agent may make periodic inspections of the cutting operations and may order the complete termination of cutting if any of the conditions of the agreement are being breached.
- e. In case of dispute as to the meaning of any of the provisions of this agreement, the Seller and the Purchaser agree to submit such dispute to arbitration in accordance with the *Arbitration Act*. Each contracting party will select one arbitrator and the two arbitrators selected will select a third arbitrator, and the decision of the arbitrators shall be final.

In witness whereof the parties hereto have executed this agreement.

Witnesses:

.....
(For the Purchaser)

.....
(Purchaser)

.....
(Address/Phone Number)

.....
(Address/Phone Number)

.....
(For the Seller)

.....
(Seller)

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