

STATE OF ALABAMA  
TUSCALOOSA COUNTY

TIMBER SALE CONTRACT

THIS AGREEMENT, Made and Entered this 28th day of September, 1983, by and between GULF STATES PAPER CORPORATION, hereinafter referred to as "SELLER," and KIMBERLY-CLARK CORPORATION hereinafter referred to as "BUYER."

W I T N E S S E T H:

1. Seller shall sell to Buyer and Buyer shall purchase from Seller, on the terms and conditions herein stated, all of the merchantable timber designated for cutting, estimated, but not guaranteed to be 565 MBF Pine Sawtimber, Scribner Log Scale, 74 MBF Hardwood Sawtimber, Scribner Log Scale, 829 cords of Pine Pulpwood, and 975 cords of Hardwood Pulpwood, growing and forming a part of the following described real property located in Shelby County, Alabama, to-wit:

The Southwest  $\frac{1}{4}$  and the South  $\frac{1}{2}$  of the Northwest  $\frac{1}{4}$  west of main north-south gravel road, also the Northeast  $\frac{1}{4}$  north of Joiner Town Road less approximately twenty-five (25) acres in the northwest corner; all in Section 16, Township 21 South, Range 1 West, being 265 acres, more or less, as shown on the map labeled "Exhibit A", which is attached to and made a part of this contract.

WORKING CIRCLE: Shelby-Iron COMPARTMENT: A-3

For the purposes of this contract, the designated "merchantable timber" shall be defined as follows:

- A. All pine trees measuring six inches and larger in diameter outside bark six inches above the ground.
- B. All hardwood trees measuring eight inches and larger in diameter outside bark six inches above the ground.

2. Buyer shall pay to Seller the following prices for timber cut:

|    | <u>SPECIES</u> | <u>PRODUCT</u> | <u>UNIT PRICE</u> | <u>UNIT OF MEASURE</u> |
|----|----------------|----------------|-------------------|------------------------|
| A. | All Pine       | Timber         | \$15.91           | per ton                |
| B. | All Hardwood   | Timber         | \$2.16            | per ton                |

3. Buyer shall pay Seller consideration at the above stated prices for timber cut as follows:

- a) Immediately upon execution of this contract, Buyer shall pay to Seller the sum of \$83,494.80 as an advance payment.
- b) Buyer shall be obligated to make weekly payments to Seller each week commencing after the execution of this contract in an amount based on the quantity of all timber cut at the prices stated in Paragraph 2. during the preceding calendar week, which quantity shall be determined by weight tickets, scale tickets, or such other documents as shall be necessary to determine the timber cut by Buyer under this agreement during the preceding week.

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Attn: Gary H. ... Case No. 87-35044

- c) Each weekly payment which shall become due from Buyer shall be reduced by an amount equal to 80% of the total weekly payment by crediting this amount against the advance payment. At such time as the advance payment has been fully applied towards weekly payments due from Buyer under this contract, Buyer shall be obligated to pay Seller the full sum owing on each weekly payment as each shall become due. If at the expiration of this contract there remains an unrecovered balance of the advance payment, Seller shall refund this balance, less any amounts due Seller under the terms of this agreement, to Buyer within thirty days of the contract expiration or termination date.

4. In the event that Buyer fails or refuses to cut and remove all of the merchantable timber made available to Buyer under this contract, Buyer shall pay to Seller a sum of money equal to one-half of the value of all such unharvested merchantable timber, based on those prices set forth in Paragraph 2. The volume of such unharvested timber by species and product shall be determined by a timber cruise performed by Seller or its agents. The amount determined to be due from Buyer shall be due immediately. It is expressly agreed that such sum is a reasonable estimate of the probable damages to be suffered by Seller as a result of such failure by Buyer, and it shall not be construed as or be held to be in the nature of a penalty. It is further understood and agreed that the Seller shall be entitled to recover any and all such sums due from Buyer from any sums of money held by Seller as an advance payment from Buyer.

5. Seller shall retain title to all timber designated for cutting until such time as said timber is severed by Buyer. Seller shall bear all risks of loss or damage to timber unless the loss or damage to the timber is caused by Buyer or Buyer's agents, servants, or employees. Buyer shall be liable to Seller for any and all such loss or damages suffered by Seller as a result of negligent acts or omissions of Buyer or Buyer's agents, servants, or employees. It is understood and agreed that the Seller shall be entitled to recover any and all such damages from Buyer from any sums of money held by Seller as advance payment to which Buyer may be entitled to a refund.

6. The Seller hereby gives and grants unto the Buyer the right to enter said above described lands and to cut and remove therefrom said designated timber on said lands. All timber not designated for cutting is reserved by the Seller, its successors and assigns.

7. The Buyer shall not place or erect or cause to be placed or erected on said lands any sawmill or planing mill or any houses or other buildings.

8. The Buyer shall keep accurate records of all transactions and amounts of timber cut from the above described lands, and the Seller shall be entitled to inspect such records during regular business hours.

9. The Buyer agrees to cut said timber and/or pulpwood herein conveyed clean as he goes and by areas and to saw the same so as to conserve the quantity thereof. Stumps shall be cut so as to cause the least practicable waste and not higher than 6 inches on the side adjacent to the highest ground, except that when this requirement is

impracticable in the judgment of the Seller the Seller may authorize or accept higher stumps; all trees shall be utilized to as low a diameter in the tops as practicable, and all portions of trees which are merchantable for products sold under this agreement shall be utilized and paid for by the Buyer. Logging operations shall be so conducted to permit scaling to be done economically and at the time and place designated by the Seller. Timber, pulpwood or logs from other lands shall not be mixed with timber, pulpwood or logs from other lands described above. As far as practicable, all branches of logging shall keep pace one with another and except when weather conditions, logging conditions, or other matters beyond the control of the Buyer, make logging economically impracticable or undesirable, logging shall not fall more than ten (10) days behind cutting. Buyer shall maintain all telephone lines, ditches and fences located on the above described property and all adjoining lands in good repair. Buyer shall keep all roads located on the above described property free of logs, tops, brush and debris.

10. Buyer shall not commit any acts which increase the risk of forest fires on said land, and in the event Buyer discovers fire on said land or on any other land of the Seller in the vicinity thereof, the Buyer shall immediately notify the Seller and the State Division of Forestry of the location of the fire and shall undertake to extinguish said fire and to use all means available to it in preventing damage to the timber, trees and timber growth on said land.

11. The Buyer shall report and pay to the State of Alabama the Forest Products Severance Tax for timber purchased under this agreement and shall reimburse the Seller for any such taxes which the Seller may be required to pay.

12. The Buyer in the exercise of the rights herein granted shall not in any way interfere with the reasonable use by the Seller of said land or with the reasonable use by grantees, contractors, or agents of the Seller of any portion of said land under rights heretofore or hereafter granted by the Seller. It is also agreed that as to timber, pulpwood, and other timber products not herein conveyed but reserved to the Seller that the Seller reserves and has the right to sell and convey said timber, pulpwood, and other timber products to other parties, together with the privilege of cutting and removing the same on any or all parts of the above described lands.

13. The Buyer shall make no unlawful or offensive use of premises and shall comply with applicable laws, ordinances, rules, and regulations of the local, State and Federal governments, and any other public authorities having jurisdiction over said property.

14. Buyer further covenants as follows:

- a) That during the period of this agreement, Buyer shall continuously remove and properly dispose of all trash, rubbish and garbage resulting from logging operations on the above described lands. If Buyer fails to remove and dispose of all such trash, rubbish and garbage, Buyer shall reimburse Seller for all such expenses Seller may incur in undertaking such.
- b) That introduction of loaded or unloaded firearms onto the above described lands shall be absolutely forbidden unless expressly and specifically authorized by the Seller.

- c) All creeks, streams, rivers, and lakes will be protected. During logging operations, all trees and/or tops felled into these bodies of water will be promptly removed by the Buyer.

15. The Buyer shall indemnify and hold Seller harmless against any and all liability whatsoever for damages to any person or thing and from any loss, damage, or expense, including reasonable attorneys' fees and other costs of litigation, arising out of or connected with the Buyer's performance of this contract, including, but not limited to, claims arising from Buyer's negligent acts or omissions or the negligent acts or omissions of Buyer's agents, employees or subcontractors.

16. The Buyer agrees to deposit with the Seller \$1,500.00 in cash on the execution of this agreement. Such payment is made to guarantee the performance by the Buyer of this contract and to protect the Seller from loss or damage. If on completion of this contract the Buyer has satisfactorily performed all of the conditions herein and there remains a balance in favor of the Buyer, the Seller shall with reasonable promptness refund said balance.

17. The Buyer or its subcontractor will, at its own expense, provide and carry during the performance of this contract Comprehensive General Liability Insurance, and Comprehensive Automobile Liability Insurance on all automobiles and over-the-road vehicles used in the performance of this work. Such Comprehensive General Liability coverage and Comprehensive Automobile Liability coverage shall contain a limit of liability of not less than \$300,000 per occurrence for Bodily Injury and \$100,000 per occurrence for Property Damage. The Buyer or its subcontractor shall also keep in force during the performance of this contract Workmen's Compensation Insurance with limits as required by law and Employer's Liability Insurance with limits of not less than \$100,000. Each and all of the said policies of insurance shall provide that the insurance companies give ten (10) days' notice to Gulf States Paper Corporation before canceling such policy. Certificates evidencing such coverage shall be submitted to the Seller ten (10) days before any logging activities are commenced under this contract.

18. It is distinctly understood and agreed that the Seller has no right and claims no right with regard to the details of the work, personnel practices of the workers or the hours of work, or other conditions of the employment of those employed or used by the Buyer, or any subcontractor of the Buyer, in the performance of this work, and that no agent, employee, or servant of Buyer shall be deemed to be the agent, employee, or servant of Seller.

19. Should the Buyer fail or refuse to cut said timber in compliance with the terms of this contract, or should the Buyer at any time fail to carry out and perform any provision of this contract, the Seller, at its option, shall have the right, without prejudice to its other legal rights and remedies, to immediately stop all cutting activity until such time as Buyer has satisfactorily complied with all terms and provisions of this contract. If Buyer fails to remedy the default, Seller shall have the right to cancel this contract upon ten (10) days' written notice to Buyer. Upon cancellation of this contract, all of the rights of the Buyer hereunder shall cease and terminate, and all monies paid in advance under this agreement shall be retained by the Seller and applied to the satisfaction of any obligations of the Buyer and any loss or damage to the Seller. If there remains a balance in favor of the Buyer, the Seller shall with reasonable promptness refund said balance.

20. The Buyer shall not assign this contract or any of the Buyer's rights or interest hereunder without written consent of the Seller, and it is distinctly understood and agreed that no agent or representative of the Seller shall have the right to in any way change, modify or abrogate any of the terms of this contract, and none of the terms hereof shall be in any way abrogated, changed or modified except in writing and by authorization of the Seller's Natural Resources Manager or its duly authorized officers.

21. The rights herein granted shall become effective on the 28th day of September, 1983, and shall terminate and end as soon as the designated timber conveyed is cut and removed or on the 27th day of September, 1984, whichever occurs first, and on such date all of the rights and interests of the Buyer hereunder, shall cease and terminate, and the title to all timber then standing, lying or growing on said lands shall revert to the Seller. In the event the Buyer requires additional time to cut and remove all the timber sold hereunder, Seller, at its option, may extend the term of this contract for a period of up to six months upon Buyer's payment to Seller of \$6,250.00.

22. Before Buyer commences its harvesting operations under this agreement, Buyer shall submit for Seller's approval a list of all subcontractors Buyer proposes to use, accompanied by a completed reference form (a copy of which is attached hereto as Exhibit "B") on each subcontractor. Seller reserves the right to prohibit Buyer's use of any subcontractor not meeting Seller's approval.

WITNESS our hands and seals in duplicate the day and year first above written.

WITNESS AS TO SELLER:

Susan Allen

GULF STATES PAPER CORPORATION

By: J. J. Nixon

Its: Manager, Natural Resources

Date: 9/27/83

WITNESS AS TO BUYER:

C. D. Austin

KIMBERLY-CLARK CORPORATION

By: R. C. Wakefield

Its: Director, Forest Products

Date: October 3, 1983

Address of Buyer:

Kimberly-Clark Corporation  
Attn: Mr. Jerry Nix  
Coosa Pines, Alabama 35044

Phone: 378-5541

Address of Seller:

Gulf States Paper Corporation  
Timber Management Office  
P. O. Box 3199  
Tuscaloosa, Alabama 35404

Phone: 553-6200

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COMPARTMENT: A

Date 7-26-83

**Signature**

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LEGEND: "EXHIBIT A"

 Timber Sale Area

SCALE  
BOMM=1MILE

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STATE OF ALA. SHERIFF CO.  
I CERTIFY THIS  
INSTRUMENT WAS FILED

1983 OCT 21 AM 8:45

*Thomas A. Snowden, Jr.*  
JUDGE OF PELEATE

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|----------|-------|
| Seed TAX | 83.50 |
| Rec      | 9.00  |
| Ind      | 1.00  |
|          | <hr/> |
|          | 93.50 |

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