



**CONTRACT 2015-1  
PLANTING AND BROWSE PROTECTION**

**THIS AGREEMENT** dated for reference **March 1, 2015** is between:

**ALBERNI VALLEY COMMUNITY FOREST CORPORATION**  
7500 Airport Road  
Port Alberni BC V9Y 8Y9

*(herein called the Corporation)*

**XXX**  
XXX  
XXX

*(herein called the Contractor)*

**1. BACKGROUND**

The Parties wish to enter into this Agreement for the provision of the Services (as set out in Schedule A) by the Contractor to the Alberni Valley Community Forest Corporation (AVCFC) in respect of the public forest lands described in Appendix I.

**2. AGREEMENTS**

The Parties agree as follows:

**Definitions.** Capitalized terms not otherwise defined in the Agreement have the meanings given them as follows:

- a) "Agreement" means the Contractor Agreement;
- b) "Arbitration Notice" has the meaning set out at Article 10.1c) herein;
- c) "Arbitrator" has the meaning as set out at article 10.0c) herein;
- d) "Board" means Board of Directors of Alberni Valley Community Forest Corporation (AVCFC);
- e) "Contract Regulation" means the Timber Harvesting Contract and Subcontract Regulations, B.C. Reg 22/96, and all amendments thereto;
- f) "Forest Act" means the Forest Act, RSBC 1996, ch 157 and all amendments thereto;
- g) "Mediation" has the meaning set out at Article 10.1b)i herein;
- h) "Mediation Notice" has the meaning as set out at Article 10.1b)l herein;
- i) "Mediation Period" has the meaning as set out at Article 10.b)ii herein;
- j) "Venue" has the meaning as set out at Article 10.1b)iv herein.

## 2.1 Agreement Documents

This Agreement comprises the following documents:

- a) this Contract;
  - i. Schedule A Services
  - ii. Schedule B Contract Payment
  - iii. Schedule D Insurance Requirements
  - iv. Schedule F Safety Conditions
  - v. Schedule G Prime Contractor Agreement
  - vi. Schedule H SAFE Certification Requirements
  - vii. Appendix 1: Maps and Site Plans

## 2.2 Conflict or Inconsistency

In the event of any ambiguity, conflict or inconsistency between or among the documents referenced in Section 2.1, the documents shall be construed, interpreted and applied so as to give effect to their express terms in the following order of precedence so that the first mentioned document shall prevail notwithstanding any term or aspect of a later mentioned document:

- a) this Contract;
- b) the Special Conditions,

## 3. TERM

The term of this Agreement commences on **March 1, 2015 and will end upon June 1, 2015** (“the Term”). The Contract is not a Replaceable Contract. The term may be extended due to unforeseen circumstances beyond the control of the Contractor.

## 4. SERVICES

The Contractor will perform the Services in accordance with this Agreement.

## 5. PAYMENT

The AVCFC will pay the Contractor for the performance of the Services in the amounts and in the manner specified by this Agreement.

## 6. TERMINATION

### a) Termination for "Cause"

The Corporation shall have the right to terminate the Contractor immediately for "cause". "Cause" as used in the article shall mean any one or more of the following:

- i. Any act, event, circumstance, matter or omission that would constitute just cause for dismissal at law; or
- ii. A material and continuing refusal or failure to perform responsibilities assigned in accordance with the terms of the Agreement, if such refusal or failure shall continue for more than thirty (30) days after specific written notice thereof has been given by or under the authority of the Board to the Contractor, subject to a dispute of such notification by the Contractor, brought in good faith in accordance with Schedule A attached hereto.

### b) Contractor's Right to Terminate

The Contractor shall have the right to terminate the Term:

- i. Immediately for any material breach by the Corporation under this Agreement, or
- ii. Upon 1 months notice provided by the Contractor to the Corporation.

### c) Obligations Cease

Upon the termination of the Contractor's engagement in accordance with the provisions of this article, all obligations of the Contractor and the Corporation hereunder shall be terminated except to the extent that other provisions of the Agreement provide to the contrary.

## 7. BUSINESS DISCLOSURES; CONFIDENTIALITY

Except to the extent specifically authorized or to the extent impliedly authorized by virtue of the nature of its responsibilities hereunder, and except as such disclosures may be made in the ordinary course of business, or by court order, the Contractor shall not directly or indirectly disclose or divulge during its tenure, and thereafter, to any person, firm or corporation not affiliated with:

- a) the Corporation, or any of its corporate affiliates, or
- b) the Contractor, or its affiliates,

without the prior written consent of the Corporation, any confidential information as to the Corporation, including, without limitation, any information relating to the Business, customers, trade or marketing practices or trade secrets, and on termination of the Operations Term for any reason, the Contractor shall not disseminate any confidential figures, letters, papers, or copies thereof, or other confidential information of any type or description, and shall make such material available for the Corporation to collect upon three (3) days notice.

## 8. INDEMNITY

- 8.1 The contractor shall indemnify and save harmless the AVCFC, its employees, agents and authorized representatives and each of them from and against losses, claims, damages, actions, causes of action, costs and expenses (collectively referred to as "Claims"), that the AVCFC or any of its employees, agents, or authorized representatives may sustain, incur, suffer or be put to at any time, either before or after this agreement ends, that arises out of or occur, directly or indirectly, by reason of errors, omissions, or negligent acts of the contractor or its subcontractor(s), servant(s), or employee(s), under this agreement, excepting always that this indemnity does not apply to the extent, if any, to which the Claims are caused by errors, omissions, or negligent acts of the AVCFC, its other contractor(s), authorized representative(s) or any other persons.
- 8.2 None of the AVCFC Representatives in charge, their agents, authorized representatives, or employees are personally liable for any act performed in the discharge of any duty imposed or in the exercise of any power or authority conferred upon them by, or within the scope of, the Agreement if it can be demonstrated that all reasonable care was exercised in the conduct of the operations; in all such matters these persons act solely as agents and representatives of the AVCFC.

## **9. CONTRACTOR NOT LIABLE**

Notwithstanding anything to the contrary herein, the Contractor shall not be liable to the Corporation for any costs, loss or damage to the Corporation caused by the Contractor in performing its duties as set out in this agreement, provided that:

- a) The Contractor acted honestly and in good faith with a view to the best interest of the Corporation;
- b) In the case of any criminal or administrative action or proceeding that is enforced by a monetary penalty, the Contractor had reasonable grounds for believing that its conduct was lawful.

## **10. DISPUTE RESOLUTION**

### **10.1 Resolution Process**

All disputes between the parties arising out of this Agreement shall be resolved as follows:

- a) The Alberni Valley Community Forest Corporation Board Chair, or his designate, and the Contractor shall first attempt in good faith to resolve any dispute within 30 days ("Discussion Period") of written request by either party;
- b) Failing such dispute being fully and finally resolved as per 10.1 herein,
  - i. Either party may, within a further 14 days after the expiry of the Discussion Period, by written notification delivered to the other party (the "Mediation Notice"), require that such dispute be referred to non-binding mediation (the "Mediation");
  - ii. The Mediation shall be completed within 30 days of the date of delivery of the Mediation Notice, or such greater time period as agreed to between the parties (the "Mediation Period");
  - iii. The Mediator shall be as agreed to between the parties within seven (7) days of the receipt of the Mediation Notice. If the parties are unable to agree on a Mediator, then both parties shall forthwith submit their nominee for Mediator to the last auditor for the Corporation, and the auditor shall draw the name of such Mediator randomly.
  - iv. The venue for the Mediation (the "Venue") shall be at such location as agreed to between the parties within seven (7) days of the receipt of the Mediation Notice. If the parties are unable to agree to a Venue, then both parties shall submit their choice of a neutral Venue

to the last auditor for the Corporation, or if no auditor has been appointed, then the last external accountant for the Corporation, and such person shall draw such Venue randomly; and

- v. The costs of the Mediator and the Venue shall be borne equally between the parties, unless otherwise agreed to in writing.
- c) Failing such dispute being fully and finally resolved as per 10.1b) herein, within 10 days following the expiration of:
- i. the said 14 day period set out in 10.1b) herein,
  - ii. the conclusion of the Mediation, or
  - iii. the conclusion of the Mediation Period,

whichever is later, either party may refer the matter to arbitration by delivering notice of such to the other party (the "Arbitration Notice"). Such arbitration shall be by a single arbiter (the "Arbitrator") and shall be governed by the terms of the *Commercial Arbitration Act (RSBC 1996, ch. 55)*, and such arbitration shall be final and binding upon the parties. The parties agree that upon service of an Arbitration Notice, the parties will be bound to resolve such dispute through arbitration, unless both parties agree in writing to withdraw the Arbitration Notice.

## 10.2 No Court Action

The Parties shall not take any steps to resolve a dispute in Court before such time as the notice periods set out in 10.1 herein have expired, or by written agreement of the parties.

## 11. NOTICES

### 11.1 Delivery

All notices under this Agreement will be in writing, and will be deemed to be given if delivered or sent by email or fax as follows:

#### to the Corporation:

Jim Sears  
Alberni Valley Community Forest  
Corporation Board Chair  
7500 Airport Road  
Port Alberni, B.C. V9Y 8Y9  
c/o [manager@communityforest.ca](mailto:manager@communityforest.ca)  
Phone: (250) 731-7377

#### to the Contractor

xxx  
xxx.  
xxx  
xxx  
Phone: xx Fax: xx  
Email: xx

or to such other address as a Party may notify the other Party in the manner provided for in this paragraph. Delivered notices will be deemed to have been received upon delivery. Email and fax notices are to be deemed received on the same day if transmitted before 4:30 pm on a Business Day. If transmitted after 4:30 pm on a Business Day then it is to be deemed received on the next Business Day.

### 11.2 Change of Address

Any party may at any time change its address for service, electronic mail address, and facsimile phone number from time to time by giving notice to the other parties in accordance with the terms herein.

### **11.3 Email Delivery**

Any notice sent by electronic mail must have been acknowledged by the recipient as having been received before the notice is deemed to have been given.

## **12. CONSTRUCTION OF AGREEMENT**

### **12.1 Governing Law**

This Agreement shall be considered for all purposes a British Columbia document and shall be construed pursuant to the laws of the Province of British Columbia and all of its provisions shall be administered according to same and its validity shall be determined under the laws of the Province of British Columbia.

### **12.2 Number, Gender and Persons**

In this Agreement, words importing the singular number only shall include the plural and vice versa, words importing gender shall include all genders and words importing persons shall include individuals, corporations, partnerships, associations, trusts, unincorporated organizations, governmental bodies and other legal or business entities of any kind whatsoever.

### **12.3 Captions**

Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience and/or reference, and they shall in no way be construed as limiting, extending, defining or describing either the scope or intent of this Agreement or of any provision hereof.

### **12.4 Counterparts**

This Agreement may be executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument. A party's transmission by facsimile or electronic mail transmission of a scanned copy of this Agreement bearing that party's signature shall constitute an effective execution and delivery of the Agreement by that party to the party receiving the transmission.

### **12.5 Severability**

The invalidity or unenforceability of any provision hereunder (or any portion of such a provision) shall not affect the validity or enforceability of the remaining provisions (or remaining portions of such provisions) of this Agreement.

## **12.6 Currency**

All references to monetary amounts herein are expressed in Canadian dollars.

## **12.7 Entire Document**

This Agreement (including all other documents executed simultaneously herewith or pursuant hereto) constitutes the entire agreement among the parties pertaining to the subject matter hereof, and supersedes and revokes any and all prior to existing agreement, written or oral, relating to the subject matter hereof, and this Agreement shall be solely determinative of the subject matter hereof.

## **12.8 Waiver**

The Corporation or the Contractor may, at any time or times, waive (in whole or in part) any rights or privileges to which either or both of them may be entitled hereunder. However, no waiver by any party of any condition, or of the breach of any term, covenant, representation or warranty contained in this Agreement, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach in other instances, or as a waiver of any other condition or of any breach of any other terms, covenants, representations or warranties contained in this Agreement, and no waiver shall be effective unless it is in writing and signed by the waiving party.

## **12.9 Legal Costs**

In the event that either party shall be required to retain the services of legal council to enforce any of their rights hereunder, the prevailing party shall be entitled to receive from the other party all costs and expenses including (but not limited to) court costs and legal fees (whether in a court of original jurisdiction or one or more courts of appellate jurisdiction) incurred by it in connection herewith.

## **12.10 Jurisdiction**

Subject to Article 10 herein, any proceeding arising hereunder shall be instituted only in the Vancouver Registry of the Province of British Columbia and all parties hereto agree that venue shall be proper for all such legal or equitable proceedings.

**12.11 Successors and Assigns**

The rights and obligations of the parties under this Agreement shall ensure to the benefit of and shall be binding upon their successors and assigns and other legal representatives. This Agreement shall not be assignable by the Corporation or the Contractor without the expressed written consent of both parties, which consent may be arbitrarily withheld.

**12.12 Agreement or Modification**

This Agreement may not be amended, modified, superseded, cancelled, or terminated, and any of the matters, covenants, representations, warranties or conditions hereof may not be waived, except by a written instrument executed by the Corporation and the Contractor, or, in the case of a waiver, by the party to be charged with such waiver.

**TO EVIDENCE THEIR AGREEMENT EACH OF THE PARTIES HAS EXECUTED THIS AGREEMENT ON THE DATE APPEARING BELOW:**

**ALBERNI VALLEY COMMUNITY  
FOREST CORPORATION**

**xxxx  
Contractor**

Per: \_\_\_\_\_ Per: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_





Attachment to the Agreement with **xxxx** for tree planting and browse protection installation within the Alberni Valley Community Forest.

**SCOPE:** The total planting program will be a mix of fill plants and regular plants. There will be approximately 63.4 ha and 73,000 seedlings of regular plant. There will be approximately 62.7 ha and 28,000 seedlings of fill plants. Installation of used 4 ft conical sinocast cones on Cw in Regular plant Sproat blocks. Estimated quantity of **3,000** cones

**OBJECTIVE:** To carry out the regular plants and Sinocast cone installation on the areas identified as **Blocks B11, B12, B13, W15, and Block TS1** in accordance with the Planting Prescriptions Maps (as attached in Appendix 1). To carry out the Fill plants on the areas identified as **Blocks B1, B2, B3, B4, B6, B7, B8, B9, F1, F2, F3, W10, W11, W12, and Block W13** in accordance with the Planting Prescriptions Maps (as attached in Appendix 1).

## **GENERAL TERMS AND CONDITIONS – TREE PLANTING**

### **1.1 Substitution of Seedlings or Planting Area(s):**

- 1.1.1 Where the Alberni Valley Community Forest Corporation (AVCFC) is unable to provide the seedlings or planting area as described herein, it may substitute other seedlings or an alternative planting area (if such area is located within the general vicinity of the work contemplated by this agreement).
- 1.1.2 Where either party considers that such substitution will cause an increase or decrease in the Contractor's cost of the performance of the work, that party may request that an equitable adjustment be made to the contract price, and that the contract be modified in writing accordingly.
- 1.3.3 Where the AVCFC and the Contractor are unable to agree on an equitable adjustment to the contract price, the contract shall be deemed to be terminated by mutual consent, and the AVCFC shall make no further compensation to the Contractor, other than payment for any work previously completed to the satisfaction of the AVCFC.

**1.2 Delivery of Seedlings:** The contractor is to deliver the seedlings to the planting sites.

**1.3 Responsibility for Seedlings:** The Contractor shall account for all seedlings issued to him pursuant to this agreement and shall assume responsibility for their care from the time of delivery. Any seedlings that are not planted shall be returned to the AVCFC at a mutually acceptable time and location and the Contractor shall have no further claims or responsibilities with respect to the seedlings.

### **1.4 Seedling Containers:**

- 1.4.1 Disposable Seedling Containers  
The Contractor shall dispose of all disposable seedling containers and wrappers either by delivering them to a disposal site or as directed by the AVCFC Manager.
- 1.4.2 Reusable Containers  
The Contractor shall return all reusable seedling containers to the seedling delivery site or to another similar location as specified by the AVCFC Manager.

## STANDARDS OF PERFORMANCE AND WORK PROGRESS - TREE PLANTING

2.1 **Planting Spot Selection - Microsites and Spacing:** The Contractor shall, in accordance with the following provisions, select as planting spots those microsites which are most conducive to survival and growth of seedlings:

### 2.1.1 Planting Microsites

Each planting spot shall meet the requirements listed below:

Acceptable Planting Microsites are:

- Mineral soil or acceptable mixture of mineral soil and well decomposed organic material;
- Microsites shaded by inanimate objects such as stumps, windfalls, rocks, etc.;
- Microsites alongside a depression in the ground;
- Microsites for Cw not in sinocast cone will be to plant near obstacle to deter deer browse
- On prepared microsites.

Unacceptable Planting Microsites are:

- Rotten logs, stumps or other organic material subject to drying out;
- Flooded areas or the bottom of depressions or gullies subject to flooding;
- Cutbanks, roadside fill, raised humps or loose soil, gravel or debris subject to drought;
- Within 2 metres of major access roads or as otherwise designated on the project map;
- Within the crown line of larger trees;
- Under overhead obstacles that could interfere with seedling growth.

### 2.1.2 Spacing of Trees

Spacing restrictions apply to the distance between planted trees and to the distance between planted and acceptable natural trees as defined in the Work Progress Plan.

Each planting spot shall be selected according to the spacing distance limitations as prescribed in this agreement. The actual spacing between trees may vary from the prescribed spacing to take advantage of the most suitable microsite but trees may not be located closer than the specified minimum intertree distance. Spacing between individual trees may exceed the prescribed spacing but trees may not be spaced too widely as defined in the Ministry of Forests, Lands and Water Resource Operations' (MFLNRO) current Planting Quality Inspection procedure.

### 2.1.3 Overall Density

Notwithstanding the foregoing, the Contractor shall ensure that where plantable microsites are available, the planting density throughout the unit shall exceed the specified minimum.

2.2 **Planting Quality:** Once a planting spot has been selected it shall be prepared and the seedling planted in accordance with the provisions of this agreement. The planting techniques used will be chosen to permit maximum survival and growth of the seedling.

### 2.2.1 Planting Spot Preparation

Planting spots shall be prepared so as to allow the seedling roots to be entirely planted in mineral soil or other acceptable medium and the seedling shoot to be left free of debris.

### 2.2.2 Planting

Each seedling shall be planted as follows:

- The planting hole shall be deep enough and wide enough so that the entire root system may be fully accommodated in a natural position;
- The root systems shall be positioned in the planting hole in a natural arrangement and shall not be jammed, bent, twisted or otherwise distorted or damaged;
- The seedling shall be planted so that the roots and stem are aligned along a vertical axis;
- The seedling shall be planted to a depth such that after filling and tamping the root collar must be at or below the surface of the acceptable planting medium with no branches or needles buried. Containerized seedlings shall have the top of the "plug" below the soil surface;

- The planting hole shall be filled with acceptable planting medium leaving no air channels or air pockets and firmly tamped so that the seedling will not pull loose with a gentle tug.

## 2.3 Care of Seedlings:

### 2.3.1 General

The Contractor shall ensure that seedlings, either loose or in boxes, are at all times stored and handled in a manner to prevent damage from freezing, overheating, rapid temperature fluctuations, excess moisture, drying, physical injury, and exposure to injurious substances.

### 2.3.2 Shipping

- When transporting seedlings the Contractor shall ensure that:
  - seedling boxes are handled gently without throwing or dropping;
  - travel time is reduced to a minimum;
  - seedling boxes are not exposed to the sun;
  - transport vehicles are refrigerated or that the cargo area is adequately protected from the sun and other heat sources, and is well ventilated;
  - only reflective type tarps, which are in good repair and approved by the AVCFC Manager, are used to cover seedling boxes.

### 2.3.3 Storage

Unless otherwise provided for in this agreement, the Contractor may store seedlings in locations at or near the worksite where natural cooling is available (i.e., such as in standing timber, snow patches or small gullies), provided that:

- seedling box temperatures do not exceed levels as approved by the AVCFC Manager, and
- such storage locations are cool and shady, and
- seedlings are protected from the sun and rain with a suspended tarp, and
- seedling boxes are separated in a manner that permits air circulation around each box.

If these provisions cannot be met at such on-site storage locations, then the Contractor shall, on a daily basis, transport each day's seedling supply from a storage facility or area where the aforementioned provisions can be met.

2.3.3.1 If this agreement requires that the Contractor provide refrigerated van or trailer storage in the vicinity of the worksite:

- such facilities shall be capable of maintaining stable storage temperatures within limits as approved by the AVCFC Manager, and
- seedling boxes shall be stored in such facilities in a manner that permits air circulation around each box.

2.3.3.2 Small supplies of seedlings may be stored on the planting site for a few hours provided that they are covered with a reflective tarp and that box temperatures do not exceed accepted levels. Shady areas must be used whenever possible.

2.3.3.3 To ensure that no individual boxes of seedlings are stored longer than necessary, stock shall be withdrawn from storage in the same order as received.

### 2.3.4 Handling of Seedlings

2.3.4.1 Seedlings shall be planted as received without root or top pruning or culling by the Contractor, his agents or employees.

2.3.4.2 Seedlings which are moldy, dry, flushed, frozen or damaged shall be reported to the AVCFC Manager in charge, and shall not be planted without his approval.

2.3.4.3 When handling, planting or tamping seedlings the Contractor shall ensure that seedlings sustain no physical damage from scarring, bending, crushing, root stripping or other causes.

- 2.3.4.4 The Contractor shall use planting bags of a type designed for the seedlings being planted and shall be in good condition.
- 2.3.4.5 The Contractor shall ensure that seedling roots are kept moist while inside planting bags.
- 2.3.4.6 The number of seedlings carried in planting bags shall not exceed the amount that can be carried and removed without injury to the seedlings, or the amount that can be planted before critical heating or drying occur.
- 2.3.4.7 Seedlings shall only be removed from the protection of the bag one at a time and immediately prior to planting.
- 2.3.4.8 Where 'plug' type seedlings are being planted, plastic wrap shall not be removed from bundles until immediately before the seedlings are needed for planting.

2.4 **Suspension of Work:** The AVCFC may temporarily suspend work under the contract and require that the Contractor remain available for up to five (5) consecutive days to resume work, within 48 hours of receipt of notice from the AVCFC. Where such a suspension exceeds 24 hours in duration the AVCFC and the Contractor may negotiate an equitable adjustment to the contract price to compensate the Contractor for reasonable and substantiated out-of-pocket costs during the suspension. Where such a suspension exceeds five days in duration the Contractor may, upon giving the AVCFC written notice, terminate this agreement without penalty.

## INSPECTION AND ACCEPTANCE

3.1 **Planting Quality Inspection System:** The AVCFC will inspect payment areas using the MFLNRO current Planting Quality Inspection system which the Contractor hereby acknowledges that he has read and understands. Trees that lie within selected inspection plots shall be assessed for damage, selection of the planting spot, and the planting quality as described in this contract. With the exception of missed spots and wide spacing being called at 2.5m

At each plot the following shall be recorded on the F.S. 704 plot card and used to calculate the planting quality percent and the excess percent:

- the number of plantable spots;
- the number of seedlings planted;
- the number of seedlings credited as satisfactorily planted;
- the number of planting faults with a coded reason for each;
- the number of seedlings planted in excess of the number of plantable spots.

3.2 **Contractor Request for Inspection and Acceptance:** Upon the completion of each payment area the Contractor shall request that the AVCFC Manager inspect and accept such area for payment. At that time the Contractor shall provide a statement and/or map quoting the number and type of seedlings planted.

### 3.3 Re-Inspection:

- 3.3.1 Where the results of an inspection are unacceptable to the Contractor, he may request that the AVCFC re-inspect the payment area in question. Such request shall be made in writing and within three days of receipt of the initial inspection results.
- 3.3.2 Where the Contractor requests a re-inspection of a payment area, the AVCFC will re-inspect the payment area at a time mutually agreed to between the parties, but in any event no later than ten (10) workdays following the date of the request for re-inspection.
- 3.3.3 Where the re-inspection indicates that the variance in the planting quality is less than or equal to ten percent (10%) of the original inspection results, the original inspection results will be used and the Contractor will pay for the cost of the re-inspection. Where the re-inspection indicates a variance of more than ten percent (10%) in planting quality, the inspection results which are most favourable to the Contractor shall be used, and if the Contractor or his

designated representative were present for the re-inspection, the AVCFC shall also pay the Contractor one hundred dollars (\$100.00) as reimbursement for the Contractor's time spent re-inspecting the area.

**MEASUREMENT AND PAYMENT**

- 4.1 **Basic Payment:** The basic payment shall be calculated by multiplying the number of seedlings issued by the bid price per seedling or, in the case of a unit based bid the basic payment, shall be the contracted amount for that payment area. The basic payment shall be subject to reductions for damages as specified herein.
- 4.2 **Planting Quality Reduction:** Where the MFLNRO Planting Quality Inspection System indicates that planting quality is less than 92.60%, basic payment as indicated above shall be reduced by multiplying the Basic Payment by the Payment %, as calculated using the following formula:

$$\text{Payment \%} = (\text{PQ} \times 1.08) - \frac{([100 - (\text{PQ} \times 1.08)]^2}{8}$$

Where PQ = Planting Quality% as determined under the MFLNRO Planting Quality Inspection System.

- 4.3 **Wastage of Trees:** Where seedlings issued to the Contractor have been lost, destroyed or wasted, or if the Contractor fails to account for all the seedlings issued, the AVCFC shall apply a payment reduction in the amount of the bid price plus twenty (20) cents per tree for the estimated number of seedlings lost, destroyed, wasted, or not accounted for. The number of seedlings unaccounted for shall be calculated by subtracting the number of trees planted, as measured using the MFLNRO Planting Quality Inspection system, plus 10% (or the standard error of the estimate as calculated by the AVCFC, whichever is greater), from the number of trees issued.
- 4.4 **Excess Trees:** Excess trees as defined in the MFLNRO Planting Quality Inspection system may be planted in a payment area to a maximum of seven percent (7%) of the total trees planted.

4.4.1 If inspection of a payment area indicates that excess trees exceed 7% of trees planted, the AVCFC shall apply a payment reduction equal to the product of the number of trees which exceed the 7% allowable excess, multiplied by the bid price (per tree).

$$\text{i.e. } \left[ \frac{\text{Total Excess Trees}}{\text{Total Trees Issued}} - 0.07 \right] \times \text{Bid Price per Tree}$$

4.4.2 If excess trees exceed 12% of trees planted, the AVCFC shall, in addition to applying the aforementioned payment reduction, apply a further payment reduction equal to the product of the number of trees which exceed 12% excess multiplied by twenty (20) cents.

$$\text{i.e. } \left[ \frac{\text{Total Excess Trees}}{\text{Total Trees Issued}} - 0.12 \right] \times \$0.20$$

- 4.5 **Low Density:** Where plantable microsites are available, but the Contractor has failed to maintain the minimum density specified, the AVCFC may refuse to make payment for the portion of the payment area affected. Minimum Density is 10% of target density.
- 4.6 **Untreated Areas:** If the Contractor fails to plant any area(s) which the AVCFC considers to be plantable, and if the Contractor is unwilling or unable to "fill-in" plant such area(s), then the AVCFC may reduce the basic payment by an amount equal to the product of the size (in hectares) of unplanted area multiplied by one thousand dollars (\$1,000.00) per hectare. No payment reduction will be made if such unplanted area is less than one tenth (1/10) of a hectare.
- 4.7 **Storage and Handling:** Where the Contractor has failed to store, handle or care for seedlings in the manner specified herein or has by any other means put the health, vigor, or safety of the seedlings in jeopardy, the basic payment may be reduced by fifty dollars (\$50) for each occurrence involving a

box of seedlings or less, or two hundred fifty dollars (\$250) for each occurrence involving more than one box.

- 4.8 **Stashed Trees:** Where seedlings issued to the Contractor have been abandoned or disposed of, the basic payment may be reduced by an amount of up to one thousand dollars (\$1000) for each occurrence.
- 4.9 **Reusable Containers:** The basic payment shall be reduced by twenty-five dollars (\$25) for each reusable container not returned.

## **NON-COMPLIANCE, TERMINATION**

### **5.1 Low Planting Quality:**

5.1.1 Notwithstanding the foregoing provisions for the calculation of payments and payment reductions, whenever an inspection indicates that planting quality is less than the minimum acceptable standard of eighty- five percent (85%) the AVCFC shall consider the Contractor's performance to be unsatisfactory, and the AVCFC shall notify the Contractor accordingly.

5.1.2 The notice shall:

- give the Contractor a deadline by which time, planting quality must be raised to the minimum acceptable standard, and
- specify if the AVCFC wishes to exercise its option to require the Contractor to rework (replant) the substandard area.

5.1.3 If the Contractor fails to raise planting quality to at least eighty-five percent (85%) by the deadline specified, or if any inspection of further work under this agreement indicates that quality is again below eighty- five percent (85%), the AVCFC may terminate this agreement forthwith.

- 5.2 **Stashed Trees:** Where seedlings issued to the Contractor have been abandoned or disposed of, the AVCFC may terminate this agreement forthwith.



Attachment to the Agreement with **xxx** for tree planting and browse protection installation within the Alberni Valley Community Forest.

**1. FEES**

1.1 Your fees (exclusive of HST) will be based on a rate as per the following:

**Table 1 – Unit Prices for Items of Work**

Item #	Item or Description of Work	Unit of Measurement	A Estimated Quantity	B Price per Unit Excluding GST	C Extended \$\$ amount Excluding GST (include cents to two decimal places (C=AxB))
1	Fill Planting Sproat	412A Stock	15,000	\$	\$
2	Fill Planting Sproat	512 Stock	8,000	\$	\$
3	Fill Planting Sproat	615 Stock	5,000	\$	\$
4	Regular Plant Sproat	412A Stock	51,000	\$	\$
5	Regular Plant Taylor	412 Stock	22,000	\$	\$
6	Browse Protection	Per 4 ft Sinocast cone installation	3,000	\$	\$
TOTAL	Value of Items 1 to 6				\$

Note: The cost of seedling pick up and delivery is the responsibility of the planting contractor and the price needs to be included in the bid price.

**2. HOLDBACK FROM PAYMENT**

2.1 As per the Agreement, the AVCFC may withhold 10% of the calculated amount from any payment. The 10% holdback will be retained for 40 calendar days after completion, or earlier termination, of all Services and interest is not payable on the amount held back by the AVCFC.

The AVCFC is authorized, but not obliged, to apply the holdback funds as follows:

- a) firstly, to any unpaid government agencies or boards;
- b) secondly to the Contractor's workers, direct subcontractors and suppliers, where required to do so by court order; and
- c) thirdly as security for the correction of any breach of a provision of the Agreement.

**3. SUBMISSION OF STATEMENT OF ACCOUNT**

3.1 In order to obtain payment for any fees (and any applicable HST) and, where applicable, expenses (excluding HST) under the Agreement, you must submit to us a written Statement of Account in a form satisfactory to us upon completion of the services or portions thereof.

3.2 The Statement of Account(s) must show the following:

- a) your legal name, address, the date and the period of time which the invoice applies, the contract number, and a statement number for identification;

- b) the calculation of all fees claimed under this Agreement showing units and rates and a description of specific services/works completed, including a declaration that the Services have been completed;
  - c) and where expenses are to be paid under this Agreement, a chronological listing, in reasonable detail and with dates, of all expenses claimed by you under this Agreement with receipts or copies of receipts, where applicable, attached; and
  - d) the calculation of any applicable GST tax payable by the AVCFC in relation to the Services provided under this Agreement as a separate line item;
  - e) your GST registration number, and
  - f) any other billing information reasonably requested by the AVCFC.
- 3.3 Within thirty-one days of our receipt of your invoice, or the date we authorize payment, whichever is the latter, we must pay you fees and, where applicable, expenses for those Services we determined were satisfactorily received.
- 3.4 Invoices are to be submitted to: [manager@communityforest.ca](mailto:manager@communityforest.ca)

Please include Contractor Name and Invoice #





Alberni Valley Community Forest  
Corporation

**SCHEDULE D**  
**INSURANCE REQUIREMENTS**  
**TREE PLANTING AND BROWSE**  
**PROTECTION**

Attachment to the Agreement with **xxxx**. for tree planting and browse protection installation within the Alberni Valley Community Forest.

1. Without restricting the generality of the indemnification provisions contained in the Agreement, the Contractor shall, at its own expense, provide and maintain, during the term of this Agreement, the following insurance coverage as fully specified in Paragraph 8 and any additional insurance which it is required by law to carry or which it considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in its sole discretion.
  - a) Commercial General Liability
  - b) Automobile Liability
2. Insurance shall be placed with Insurers registered in and licensed to underwrite such insurance in Canada. All such insurance shall be at no expense to the AVCFC. If the AVCFC requires additional Insurance Coverage to be obtained by the Contractor, the additional expense of such additional insurance shall be borne by the AVCFC.
3. The Contractor shall, prior to the commencement of services and before any payments are made under this Agreement, file with the AVCFC Representative evidence of insurance coverage in a form acceptable to the AVCFC Representative.
4. The insurance policies shall provide that the insurance shall not be cancelled or materially changed so as to affect the coverage provided under the Agreement, without the Insurer giving at least thirty (30) days prior written notice to the AVCFC. Material change with respect to Professional Liability Insurance does not require the Insurer to give thirty (30) days prior written notice to the AVCFC.
5. Failure to provide the required insurance documentation shall result in termination of this Agreement.
6. If the insurance policies expire prior to the end of the Agreement Term, the Contractor shall provide the AVCFC evidence of insurance renewal in a form acceptable to the AVCFC Representative at least ten (10) days prior to the expiry date of the policies listed in this Schedule.
7. The Contractor shall ensure that all its subcontractors performing Services under this Agreement carry insurance in the form and limits specified in Paragraph 8.
8. The following forms of insurance and specified minimum limits are required:
  - a) **Commercial General Liability**  
Commercial General Liability insurance in an amount not less than \$2 million inclusive per occurrence against bodily injury, personal injury, and property damage and including liability assumed under the Agreement.

Such policy(s) of insurance shall include, but not be limited to:

- i) Products and Completed Operations Liability;
- ii) Owner's and Contractor's Protective Liability;
- iii) Contingent Employer's Liability;
- iv) Blanket Written Contractual Liability;

- v) Personal Injury Liability;
- vi) Non-Owned Automobile Liability;
- vii) Cross Liability;
- viii) Employees as Additional Insured; and
- ix) Broad Form Property Damage.

b) **Automobile Liability**

Automobile Liability insurance on all vehicles owned, operated or licensed by the Contractor in an amount not less than \$2 million inclusive per occurrence.



Alberni Valley Community Forest  
Corporation

## **SCHEDULE F**

### **SAFETY CONDITIONS**

### **TREE PLANTING AND BROWSE**

### **PROTECTION**

Attachment to the Agreement with **xxx** for tree planting and browse protection installation within the Alberni Valley Community Forest.

Terms such as “employer”, “independent operator”, “multiple employer workplace”, “owner”, “prime contractor”, and “worker” have the meanings given those terms by Part 3 of the *Workers’ Compensation Act (WC Act)*.

#### **1. OTHER SAFETY CONSIDERATIONS**

- 1.1 In accordance with the *WC Act* and its regulations, the Contractor must submit a notice of project, as applicable, to WorkSafe BC, unless the Contractor is notified in writing that the AVCFC will submit the notice of project. Where the Contractor submits the notice of project, a copy must be provided to the AVCFC. Where the AVCFC submits the notice of project, the Contractor must provide, upon our request, all the information necessary to support the notice of project and the AVCFC will provide the Contractor with a copy of the notice of project.
- 1.2 The Contractor will commence and conduct all operations consistently with the notice of project.
- 1.3 The Contractor must immediately submit written notice to the AVCFC on all matters reported to WorkSafe BC by the Contractor or the Contractor’s Subcontractors. The written notice must include all information necessary to allow the AVCFC to adequately collect and address safety or other related incidences, but will be anonymized so as not to include personal information about an identifiable individual including their name, address, telephone number, age, sex, race, religion, sexual orientation, disability, fingerprints, or blood type, health care, educational, financial or employment history and anyone else's opinion about the individual. This scope does not include business contact information (e.g., name, title, address, telephone or fax numbers or email address used for business contact purposes).
- 1.4 Where the AVCFC brings safety concerns to the attention of the Contractor, it shall give full consideration to the issues raised and provide the AVCFC with a considered response, including any information necessary to demonstrate that the Contractor is in compliance with *WC Act* and its regulations.
- 1.5 If the Contractor or any Subcontractors are exempted from being certified as a SAFE Company under BC Forest Safety Council standards, they must, in addition to any conditions associated with said exemption, provide evidence to the satisfaction of the AVCFC that the Contractor or its Subcontractors have:
  - (a) an employee monitoring system that will periodically ensure the well being of all the Contractor’s or its Subcontractor’s employees commensurate with the risks associated with the employee’s activities; and
  - (b) an emergency response plan and employee understanding of said plan that will ensure adequate and timely response to any emergency that can be reasonably expected to occur in relation to the Works or Services being performed; and
  - (c) evidence of training and any required certifications required under *WC Act* or its regulations; and

- (d) evidence of a maintenance program for all equipment and vehicles owned or operated by the Contractor or its Subcontractors commensurate with the risks associated with such equipment and vehicles.

## **2. PRIME CONTRACTOR PROVISIONS**

2.1 The Contractor acknowledges, agrees, and warrants that:

The Contractor will be considered to be the Prime Contractor and shall enter into a Prime Contractor Agreement with the AVCFC and shall carry out the duties described therein, where any of the following conditions exist:

- (a) the AVCFC gave notice that the Successful Bidder would be the Prime Contractor;
- (b) the AVCFC designates the Contractor to be the Prime Contractor at any time during the performance of the Work or Services;
- (c) the Contractor creates a multiple employer workplace through subcontracting any of the Work or Service at any time.

2.2 Where the Contractor is being considered as the Prime Contractor as per clause 2.01, the following is applicable:

- (a) upon request, the Contractor must satisfy the AVCFC that the Contractor has the experience and capacity to address Prime Contractor responsibilities in accordance with the Agreement and the WC Act and its regulations; and
- (b) the AVCFC provides written acknowledgement of the Contractor's experience and capacity to function as Prime Contractor; and
- (c) where the Contractor creates a multiple employer workplace, the Contractor will provide or acquire at their own expense all resources necessary to discharge the Prime Contractor responsibilities; or
- (d) the AVCFC may, in its sole discretion, give consideration for compensation related to any additional costs where, after commencement of the work, the AVCFC creates a multiple employer workplace and designates the Contractor to be the Prime Contractor.

2.3 The AVCFC may from time to time give prior written notice that a person other than the Contractor is designated as the Prime Contractor. The Contractor agrees that on receiving such written notice, the Contractor will cooperate with the Prime Contractor and shall coordinate health and safety activities and ensure compliance with the Prime Contractor's safety program.

2.4 The Contractor shall, upon becoming aware of any apparent deficiencies in the Prime Contractor's work which would affect the Work or Services, shall report such deficiencies in writing to the AVCFC Representative.



Alberni Valley Community Forest  
Corporation

**SCHEDULE G**  
**PRIME CONTRACTOR AGREEMENT**  
**TREE PLANTING AND BROWSE**  
**PROTECTION**

THIS AGREEMENT DATED FOR REFERENCE THE **1st DAY OF March, 2015**

**PROJECT DESCRIPTION:**

TREE PLANTING AND BROWSE PROTECTION WITHIN BLOCKS B1, B2, B3, B4, B6, B7, B8, B9, B11, B12, B13, F1, F2, F3, W10, W11, W12, W13, W15 AND TS1 OF THE ALBERNI VALLEY COMMUNITY FOREST

**Between:**

**The Alberni Valley Community Forest Corporation (AVCFC)**  
**7500 Airport Road**  
**Port Alberni, B.C. V9Y 8Y9**  
**Phone Number: (250)731-7377**  
**AVCFC Representative: Chris Law, R.F.T.**  
**Email Address: [manager@communityforest.ca](mailto:manager@communityforest.ca)**  
**(the "AVCFC")**

**And:**

**XXX.**  
**XXX**  
**XXX**  
**Phone Number: (XXX)**  
**Fax Number: (XXX)**  
**Email Address: XXX**  
**Name of Company Representative: XXX**  
**BCFSC Certification XXX**  
**Worksafe BC Number: XXX**

**(the "Prime Contractor")**

**Referred herein to as "the Parties".**

**Whereas:**

- A.** The AVCFC and the Prime Contractor have agreed that the *Workers Compensation Act (WC Act)* and its regulations allow the AVCFC to establish Prime Contractor responsibilities.
- B.** The Prime Contractor agrees to be the prime contractor at the Place of Work or Work Area.
- C.** The Prime Contractor has the required knowledge and control of the Place of Work or Work Area to execute the responsibilities of a prime contractor as described in the *WC Act* and its regulations.
- D.** The AVCFC and the Prime Contractor have agreed that the prime contractor functions shall be carried out in accordance with this Agreement and any Contract Documents or other agreements between the Parties.

Accordingly, the Parties agree as follows:

## 1. DEFINITIONS

- 1.1 In this document, the following words have the following meanings:
- (a) "**Affected Parties**" means other parties described in Article 2 that create a multiple employer workplace;
  - (b) "**Agreement**" means this Prime Contractor Agreement between the Parties;
  - (c) "**Amending Document**" means an Amendment form or another standard form of similar nature specified by the AVCFC;
  - (d) "**Contract Documents**" means those documents described in Section 3.1.
  - (e) "**Principal Contractor**" means a party who holds a contract for service or works with the AVCFC and does not include any tenures or authorizations under the Forest Act.
  - (f) "**Term**" means the period of time this Agreement is in force pursuant to Section 3.
- 1.2 If any of the words in section 1.1 are used in any other Contract Document, they have the same meaning as in this document unless the context dictates otherwise.

## 2. AFFECTED PARTIES

The following other parties are a party to the creation of a multiple employer workplace and are affected by this Agreement and the responsibilities of the Prime Contractor as laid out herein:

Firm Name	Address	File #

## 3. CONTRACT DOCUMENTS AND AMENDMENTS

### Contract Documents

- 3.1 The Parties entered into the agreement dated for reference the **1ST day of March, 2015** identified as **Agreement Number 2015-1** that is applicable to and forms part of this Agreement.

### Amending Documents

- 3.2 No change to the Agreement is effective unless the change is in the form of an Amending Document signed by both Parties.

## 4. TERM OF AGREEMENT

- 4.1 Subject to Clause 3.2, the Term of this Agreement is from **March 1, 2015 to June 1, 2015** inclusive.
- 4.2 Time is of the essence in this Agreement.

## 5. PRIME CONTRACTOR RESPONSIBILITIES

- 5.1 The Prime Contractor shall:
- (a) Establish and maintain a system or process that will ensure compliance with Part 3 of the *WC Act* and its Regulations applicable to the Place of Work or Work Area.
  - (b) When requested, co-operate with contract monitoring by the AVCFC Representative, by providing up-to-date information to the AVCFC Representative including but not limited to:
    - i. the Prime Contractor's safety program;

- ii. a system for first aid coordination;
  - iii. emergency transportation provisions for injured workers;
  - iv. workplace inspection results for Prime Contractor's own workers and for the Affected Parties;
  - v. safety meeting minutes from the Prime Contractor and the Affected Parties and all accident investigations.
- (c) Immediately notify the AVCFC Representative should there be any circumstance arising which another party claims or purports to be the prime contractor at the Place of Work or Work Area. There can be only one prime contractor on any multiple employer workplace.
  - (d) Prior to the Work or Services commencing on the Place of Work or Work Area ensure a safety program is in place.
  - (e) Familiarize itself with the Place of Work or Work Area and receive from the AVCFC Representative a list of hazards which have been observed at the Place of Work or Work Area and conduct workplace inspections to identify additional or new hazards at the Place of Work or Work Area.
  - (f) Enforce the required safety rules and all regulatory requirements on all workers of the Prime Contractor and of the Affected Parties at the Place of Work or Work Area.
  - (g) Ensure there is appropriate first aid coverage for all workers of the Prime Contractor and of the Affected Parties at the Place of Work or Work Area.
  - (h) Comply with the *WC Act* and its Regulation.
  - (i) Ensure a notice of project is delivered to WorkSafe BC for itself and all Affected Parties in accordance with the *WC Act* and its regulation.
  - (j) Whenever the Place of Work or Work Area is a multiple employer workplace, ensure the activities at the site are coordinated to eliminate or minimize risk of injuries to the Prime Contractor and to the Affected Parties and their workers.
  - (k) Ensure all workers of the Prime Contractor and of the Affected Parties at the Place of Work or Work Area are given any information known to you that is necessary to identify and eliminate or control hazards to the health or safety of all workers.
  - (l) Immediately notify workers, suppliers, and Affected Parties and any other persons of any hazard created by overlapping or adjoining work activities of two or more contractors and ensure the hazards are addressed throughout the duration of such activity.
  - (m) Ensure there is a system in place to alert you when workers, suppliers, and Affected Parties enter the Place of Work or Work Area so their work can be coordinated. This will include all Affected Parties providing you with the name of a person designated by them to supervise their workers.
  - (n) Monitor the work of the Prime Contractor's workers and of the Affected Parties' workers to ensure compliance with the *WC Act* and its Regulation.
  - (o) Ensure Affected Parties adequately supervise their workers. 5.02 The Prime Contractor shall not assign this Agreement, or subcontract any obligations under this Agreement.
- 5.2 The Prime Contractor shall not assign this Agreement, or subcontract any obligations under this Agreement.
- 5.3 Where the Prime Contractor or Affected Parties identified in this Agreement are Principal Contractors for the AVCFC, this Agreement forms the written notice of Prime Contractor.

The Parties hereto have duly executed this **Agreement 2015-1**.

<p>SIGNED AND DELIVERED on behalf of the AVCFC by an authorized representative of the AVCFC</p> <p>_____</p> <p>Authorized signatory of the AVCFC</p> <p>Printed Name: _____</p> <p>Dated: _____</p>	<p>SIGNED AND DELIVERED by or on behalf of the Prime Contractor (or by an authorized signatory of the Prime Contractor if a corporation).</p> <p>_____</p> <p>Prime Contractor or authorized signatory</p> <p>Printed Name: _____</p> <p>Dated: _____</p>
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Alberni Valley Community  
Forest Corporation

**SCHEDULE H**  
**SAFE CERTIFICATION REQUIREMENTS**  
**TREE PLANTING AND BROWSE**  
**PROTECTION**

Attachment to the Agreement with **xxx**. for tree planting and browse protection installation within the Alberni Valley Community Forest.

1. Prior to commencement of the Work or Services under the Agreement, the Contractor must ensure that all of the Contractor's Subcontractors are:
  - (a) Certified in the BC Forest Safety Council SAFE Company Program; or
  - (b) Endorsed by BC Forest Safety Council as new entrants to the industry, or
  - (c) Certified under another safety scheme recognized by BC Forest Safety Council,and that certification or endorsement is maintained in good standing while working or providing direction on the Place of Work or Work Area.
2. The Contractor may apply in writing to the AVCFC for exemption of the requirement for certification in the SAFE Companies Program of its Subcontractors under the following situations:
  - (a) where the Work or Services is not normally performed by persons working in the forest industry;
  - (b) where, by requiring SAFE Company certification, the Contractor would put an undue hardship on its Subcontractors performing the work or might prevent required work from being done under the Contract.
3. The AVCFC must provide exemption approval in writing. Where approval or conditional approval is given, the Contractor must ensure its Subcontractors comply with the terms and conditions of the approval.
4. Should the Contractor or its Subcontractors no longer be in good standing in the SAFE Company Program or other recognized program at any time during the Term of the Agreement, the Contractor shall immediately advise the AVCFC and shall submit to the AVCFC, within five (5) days, evidence satisfactory to the AVCFC that the Contractor or its Subcontractors are actively engaged with the BC Forest Safety Council or other applicable organization in obtaining re-certification.

The Contractor or its Subcontractors must achieve re-certification within a reasonable period of time, and the reasonable period of time will be determined by the AVCFC in its sole opinion.

When re-certification is obtained, the Contractor shall promptly submit proof of re-certification to the AVCFC.



Alberni Valley Community Forest  
Corporation

**APPENDIX I**  
**GENERAL MAPS AND PLANTING**  
**PRESCRIPTIONS TREE PLANTING**  
**AND BROWSE PROTECTION**

Attachment to the Agreement with **xxx** for tree planting and browse protection installation within the Alberni Valley Community Forest.

The attached general map shows all blocks and site plans for each block.