

## ATTACHMENT C

### PROFESSIONAL SERVICES AGREEMENT BETWEEN THE SPOKANE TRIBE AND [CONTRACTOR]

This Agreement, effective as of [\_\_\_\_\_], 2023 (the “Effective Date”), is entered into in Wellpinit, WA, between the Spokane Tribe (“Tribe”) and **CONTRACTOR, ADDRESS, PHONE NUMBER** (“CONTRACTOR”), for the provision of certain professional services, as specifically set forth herein.

#### **1. PARTY REPRESENTATIVES AND CONTRACT DOCUMENTS**

- 1.1** The Tribe’s Party representative for purposes of this Agreement shall be John Seyler (509) 626-4446. CONTRACTOR’S party representative for purposes of this Agreement shall be **[NAME OF CONTRACTOR REPRESENTATIVE]**. The COR will designate a Subordinate Contracting Officer’s Representative (SCOR) at the pre-work meeting as his on-the-ground representative. The SCOR shall provide directions and decisions regarding implementation of the contract work or field questions that arise from day-to-day operations. The Tribes SCOR’s are George Teters, TJ Hitch, Clifford Phillips and they can be reached at (509) 626-4445, (509) 626-4435 and (509) 626-4444.
- 1.2** CONTRACTOR enters into this Agreement, and remains throughout the term of this Agreement an independent CONTRACTOR and not an employee.
- 1.2.1 CONTRACTOR is not subject to the day-to-day supervision of the Tribe, but is contracted independently to complete the project(s) specifically described herein.
- 1.2.2 CONTRACTOR shall be directly responsible to [NAME/TITLE; Example: “the Spokane Tribal Business Council”] for all purposes contractual, supervisory, and performance-related under this Agreement.
- 1.2.3 CONTRACTOR is not entitled to the rights of benefits afforded to Tribal employees, including, but not limited to, disability or unemployment insurance, workers’ compensation, medical insurance, annual or sick leave, or any other employment benefit accorded to Tribal employees.
- 1.2.4 CONTRACTOR is responsible for providing, at CONTRACTOR’s expense, employer’s taxes, applicable worker’s compensation and unemployment insurance, appropriate liability insurance, and applicable licenses for CONTRACTOR.

- 1.3 Contract documents consist solely of this written Agreement signed by both parties, and any attachments specifically referenced herein.

2. **TERM**

**[Time-based]**: The term of this Agreement will commence upon the Effective Date and will continue until [REDACTED] (the "**Initial Term**"), unless earlier terminated in accordance with the provisions hereof; *provided, however*, that if the CONTRACTOR has performed any Services (or other work) for the Tribe prior to the Effective Date, such services or work will be governed by the terms and provisions of this Agreement (in the absence of any other written agreement expressly governing such services or work). Upon the expiration of the Initial Term, this Agreement may be renewed by the written agreement of the Parties (upon such terms as are mutually agreeable to the Parties). The period of time during which this Agreement is in effect in accordance with this Article 2 is referred to herein as the "**Term**". Work shall commence within three (3) days after receipt by the Contractor of notification to proceed. It is anticipated that work may begin in April, depending on the accessibility of the planting areas and soil conditions.

3. **SERVICES TO BE PERFORMED BY CONTRACTOR**

3.1 Services to be performed by CONTRACTOR are set forth in the Scope of Work, marked as Attachment A and incorporated herein by this reference. However, if a conflict arises between this Agreement and Attachment A the terms and conditions contained in this Agreement shall control.

3.2 CONTRACTOR shall adhere to all laws, regulations, or standards applicable to such work in the performance of this Agreement.

3.3 CONTRACTOR shall also be bound to all conditions, requirements, limitations and other provisions of Attachment A. However, if a conflict arises between this Agreement and Attachment A, or any other attachments, the terms and conditions contained in this Agreement shall control.

3.4 **STANDARD OF PERFORMANCE:**

3.4.1. All Services generated under this Agreement by CONTRACTOR, outside consultants, or subcontractors, shall be based upon CONTRACTOR's knowledge, experience, and professional judgment and shall be performed with the standard degree of skill and care ordinarily exercised by members of the same profession currently practicing on similar projects within this geographic area and under similar circumstances.

3.4.2. CONTRACTOR shall ensure all Services generated under this Agreement are performed in compliance with all applicable national, federal, state, municipal laws, regulations, codes, ordinances, orders and with those of any other body

having jurisdiction, and the CONTRACTOR shall be fully responsible for providing Services, documents and other work product that are complete and adequate for the purposes intended by the Tribe.

#### **4. COMPENSATION**

- 4.1** The Tribe shall compensate CONTRACTOR as set forth in the Compensation Schedule, marked as Attachment B and incorporated herein by this reference. However, if a conflict should arise between this Agreement and Attachment B the terms and conditions contained in this Agreement shall control.
- 4.2** Intentionally Deleted.
- 4.3** Compensation to CONTRACTOR shall be made in accordance with standard TRIBE operating procedures.
- 4.4** Intentionally Deleted.
- 4.5** In the event that this Agreement is terminated before completion of the Agreement term, CONTRACTOR shall receive such compensation as is due under this Agreement to the date of termination set forth in such notice, so long as the CONTRACTOR is performing in conformity with the terms of this Agreement and all Tribal property is returned to the Tribe.
- 4.6** Advanced written approval shall be obtained from the Tribe for additional amounts for fees and expenses.
- 4.7** CONTRACTOR shall also be bound to all conditions, requirements, limitations and other provisions of Attachment B. However, if a conflict arises between this Agreement and Attachment B, or any other attachments, the terms and conditions contained in this Agreement shall be control.

#### **5. GENERAL PROVISIONS**

- 5.1** **Integration.** This Agreement expresses the complete understanding of the parties, and supersedes any and all other agreements, either oral or in writing, between the parties with respect to the terms of this Agreement. Each party to this Agreement acknowledges that no representation, inducements, promises, or other agreements, orally or otherwise, have been made by any party, or anyone dealing on behalf of any party, which are not embodied herein; and that no other agreement, statement, or promise not contained in this Agreement shall be valid or binding on either party, except that any other written Agreement dated concurrent with or after this Agreement shall be valid as between the signing parties.

**5.2 Modifications.** Any modification of this Agreement will be effective only if it is in writing and signed by both parties.

### **5.3 Property of Parties**

5.3.1 All records, of any nature, whether existing at the time of this Agreement, produced through the efforts of the CONTRACTOR in furtherance of the services provided under this Agreement, or obtained by CONTRACTOR from any other source in furtherance of services provided under this Agreement, and whether prepared by the CONTRACTOR or otherwise, shall remain the exclusive property of the Tribe.

5.3.2 All Tribal equipment, books, and files/records utilized by CONTRACTOR in performing CONTRACTOR's duties under this Agreement shall be returned immediately to the Tribe by CONTRACTOR upon the expiration or termination of this Agreement, regardless of whether any dispute exists between the Tribe and CONTRACTOR at and/or following the expiration or termination of this Agreement.

5.3.3 Intellectual Property.

5.3.3.1 CONTRACTOR agrees that ownership of all materials developed under this Agreement shall be in the Tribe.

5.3.3.2 CONTRACTOR may retain all personal notes relating to work under this Agreement, and may retain copies of documents generated by CONTRACTOR pursuant to this Agreement; *provided, however*, that copies of all notes and ORIGINAL copies of all documents created in the performance of this Agreement, shall be provided to the Tribe.

**5.4 Non-disclosure Agreement.** The Tribe agrees to furnish CONTRACTOR, or CONTRACTOR has agreed to develop, in the performance of this Agreement and on behalf of the Tribe, certain confidential information relating to the Tribe's governmental affairs and Enterprises. The Tribe desires to prevent the unauthorized disclosure of confidential information, as defined below:

5.4.1 Definition. For the purposes of this Agreement, "Confidential Information" shall mean any and all information or material of a Party, whether revealed orally, visually, or in tangible or electronic form, that is not generally known or available to the public, including but not limited to information that contains or relates to (i) a Party's finances, including pricing, costs, revenues and expenses, (ii) personnel, employees, consultants and contractors, (iii) marketing

strategies, sales and marketing data, customer lists (including the identity of actual and potential customers) and supplier lists (including the identity of actual and potential suppliers), (iv) operations, business procedures, know-how and capabilities, (v) product designs, drawings, specifications and computer code, (vi) future technical, business, and marketing plans, and product strategies, (viii) information pertaining to the location of the Tribe's cultural resources, including but not limited to archaeological sites, sacred sites and traditional cultural sites and (viii) any information not set forth in clauses (i) through (vii) that would qualify under law for protection as a trade secret or as privileged. In addition to the foregoing, Confidential Information shall include this Agreement and its terms, that any discussions and/or negotiations are taking place between the parties regarding the purpose of this Agreement, as well as any information in any form or media that is marked physically or electronically as "confidential" or with words of similar effect as well as all information that the Disclosing Party identifies as confidential at the time of oral disclosure.

5.4.2 The party receiving Confidential Information hereunder is referred to as the "Receiving Party" and the party disclosing Confidential Information hereunder is referred to as the "Disclosing Party." Confidential Information shall not include information which the Receiving Party demonstrates: (i) is widely known by the public through no breach of this Agreement or other act by the Receiving Party; or (ii) the Receiving Party rightfully knew prior to the time that it was disclosed to Receiving Party hereunder; or (iii) the Receiving Party received from a third party lawfully possessing and lawfully entitled to disclose such information without breach of this Agreement.

5.4.3 Obligations of Confidentiality. The Receiving Party will maintain the Disclosing Party's Confidential Information, as well as any notes or documents prepared by the Receiving Party that contain, summarize or are otherwise based upon the Confidential Information ("Work Product"), in the strictest confidence and, (i) except with the prior written consent of the Disclosing Party, will not disclose such Confidential Information or Work Product to any third party, or, (ii) except as is reasonably necessary to evaluate the Business Purpose, without the prior written consent of the Disclosing Party, will not use or reproduce such Confidential Information or Work Product. The Receiving Party will maintain all of the Disclosing Party's Confidential Information and Work Product in a safe and secure manner, using physical, virtual and cyber security measures consistent with best industry practice. The Receiving Party will use all commercially reasonable steps to protect the Disclosing Party's Confidential Information and Work Product from unauthorized or inadvertent disclosure, but in any event, steps no less stringent than it uses to protect its own similar Confidential Information. Notwithstanding anything in the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information to the Receiving Party's affiliates, officers, directors, partners, employees,

accountants, lawyers, advisors and other consultants or representatives (collectively “Related Persons”), but only to the extent necessary to pursue the Business Purpose. Each Receiving Party will ensure that all of its Related Persons that receive any Confidential Information of the Disclosing Party shall be obligated to maintain such Confidential Information in strictest confidence and otherwise in accordance with the terms of this Agreement. The Receiving Party shall be responsible for any acts or omissions of its Related Persons that violate the terms of or result in a breach of this Agreement.

- 5.4.4 Return of Materials. Upon the written request of a Disclosing Party at any time, the Receiving Party shall, as the Disclosing Party may elect, promptly (i) return to the Disclosing Party or (ii) certify the destruction of all Confidential Information and copies thereof in the possession of the Receiving Party or any of its Related Persons, provided, however, that Confidential Information of a Disclosing Party disclosed in digital or other electronic form, and any digital or other electronic copies thereof made by the Receiving Party or any of its Related Persons, must be destroyed using then-industry-standard methods for such destruction.
- 5.4.5 Notification of Disclosure. If either Party discovers any actual or threatened disclosure of the other Party’s Confidential Information or Work Product, the Party making such discovery shall promptly notify the other and the Party responsible for, or that caused, any such disclosure shall, at its own expense, use all reasonable efforts to remedy any actual disclosure and to prevent any future disclosure.
- 5.4.6 Excluded Confidential Information. The obligations imposed by this Agreement shall not apply with respect to any portion of Confidential Information or Work Product which (i) has been approved in writing for release by the Disclosing Party; or (ii) is required to be disclosed pursuant to law or to a final and binding order of a governmental agency or court of competent jurisdiction, provided that the Disclosing Party has been given reasonable notice of the pendency of such disclosure and the opportunity to object, the Receiving Party discloses only such Confidential Information or Work Product as must be disclosed under the circumstances, and the Receiving Party uses its reasonable efforts to secure confidential treatment of such Confidential Information or Work Product.
- 5.4.7 Obligations.
  - 5.4.7.1 CONTRACTOR agrees to review, examine, inspect, or obtain such confidential information solely for advising the Tribe, and otherwise to agrees to hold such information pursuant to the terms of this Agreement.

5.4.7.2 CONTRACTOR shall hold and maintain confidential information in strictest confidence for the sole and exclusive benefit of the Tribe.

5.4.7.3 CONTRACTOR shall restrict access to confidential information to employees, contractors and subcontractors, and third parties as is reasonably required, and shall require those persons to sign nondisclosure restrictions at least as protective as those in this Agreement.

5.4.7.4 CONTRACTOR, without advanced written approval of the Tribe, shall not use for CONTRACTOR's own benefit, publish, copy, or otherwise disclose to others, or permit the use by others for their benefit or to the detriment of the Tribe, any confidential information.

5.4.7.5 CONTRACTOR shall return or provide to the Tribe, upon written demand by the Tribe, all confidential information, including all records, reports, notes, photographs, sketches, drawings, models, memoranda, and other written, printed, or tangible materials in CONTRACTOR's possession pertaining to confidential information.

5.4.8 These nondisclosure provisions shall survive the termination of this Agreement, and CONTRACTOR's duty to hold confidential information in confidence shall remain in effect for 10 years, or until the Tribe provides CONTRACTOR written notice releasing CONTRACTOR from this non-disclosure Agreement, whichever occurs first.

5.4.9 Any breach of confidentiality shall be considered serious and subject to investigation and to possible termination of this Agreement, and appropriate legal action, including, but not limited to, recovery of damages and reasonable attorney's fees and expenses.

## **5.5 Waiver**

5.5.1 The failure of either party to insist on strict compliance with any terms, covenants, or conditions of this Agreement by the other party shall not be deemed waiver of that term, covenant, or condition; nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power of all and or any other times.

5.5.2 Nothing in this Agreement shall be construed to waive the Tribe's sovereign immunity from suit.

**5.6 Severability.** If any word, phrase, or provision in this Agreement is held by the Spokane Tribal Court of the Spokane Tribe of Indians to be invalid, void, or

unenforceable, the remaining provisions shall continue in full force without being impaired or invalidated in any way.

**5.7 Governing Law.** The laws of the Spokane Tribe and federal laws shall govern this Agreement, without reference to conflicts of law rules. To the extent the laws of the Spokane Tribe and federal laws do not address the relevant issues, the laws of the state of Washington shall apply. The parties agree that the Spokane Tribal Court of the Spokane Tribe of Indians shall be the proper forum and venue.

**5.8 Indemnification.**

5.8.1 CONTRACTOR shall at its own expense, promptly reimburse the Tribe for the defense of, and hold the Tribe and its officers and employees harmless from and against any and all claims, actions, liabilities, losses, damages, judgments, grants, costs, and expenses (including reasonable attorney's fees) arising out of injury or death to persons, or damage to property but only to the extent caused by the negligence or misconduct of CONTRACTOR and its principals, officers, employees, agents, assigns, and subcontractors in the performance of obligations arising under this Agreement, provided the Tribe promptly notifies CONTRACTOR in writing of any such claim, provided that CONTRACTOR shall have the exclusive right to control the defense, and the amount does not exceed and is otherwise covered by the CONTRACTOR's liability insurance required pursuant to section 5.9.

5.8.2 The Tribe shall promptly reimburse CONTRACTOR for the defense of, and hold the CONTRACTOR and its officers and employees harmless from and against any and all claims, actions, liabilities, losses, damages, judgments, grants, costs, and expenses (including reasonable attorney's fees) arising out of injury or death to persons, or damage to property but only to the extent caused by the negligence or misconduct of the Tribe and its officials, employees, agents, and subcontractors in the performance of obligations arising under this Agreement, provided: (i) the CONTRACTOR promptly notifies the Tribe in writing of any such claim; (ii) the Tribe shall have the exclusive right to control the defense; and (iii) the amount does not exceed and is otherwise covered by the Tribe's liability insurance.

**5.9 Insurance**

5.9.1 CONTRACTOR shall maintain, during the term and each renewal or extension of this Agreement, at its own expense, the following insurance: (i) professional liability insurance with limits of at least \$1 million per claim and \$1 million in the aggregate; (ii) statutory workers' compensation insurance or equivalent industrial accident insurance covering all employees as required by law; (iii) commercial automobile liability coverage (if the use of automobiles is required) for all owned, hired, borrowed, leased, or non-owned automobiles,



providing bodily injury and property damage liability coverage with a combined single limit of \$1,000,000; (iv) employer's liability insurance with limits of at least \$1 million per claim and in the aggregate; and (v) commercial general liability insurance (including, but not limited to, premises operations, property damage, products/completed operations, contractual liability, and personal injury) with limits of at least \$1,000,000 per occurrence/ \$2,000,000 annual aggregate.

5.9.2 The Tribe shall maintain, during the term and each renewal or extension of this Agreement, at its own expense, the following insurance: (i) statutory workers' compensation insurance or equivalent industrial accident insurance covering all employees as required by law; (ii) commercial automobile liability coverage (if the use of automobiles is required) for all owned, hired, borrowed, leased, or non-owned automobiles, providing bodily injury and property damage liability coverage with a combined single limit of \$1,000,000; and (iii) commercial general liability insurance (including, but not limited to, premises operations, property damage, products/completed operations, contractual liability, and personal injury) with limits of at least \$1,000,000 per occurrence/ \$2,000,000 annual aggregate.

5.9.3 Insuring carriers for each Party shall be rated at least A-VIII by AM Best. Within thirty (30) days of the execution of this Agreement, CONTRACTOR shall furnish to the other a certificate evidencing the insurance required above. Each Party shall provide the other Party with thirty (30) days prior written notice of cancellation or non-renewal. Any lapse of coverage may be grounds for termination of this Agreement.

## **5.10 Termination.**

5.10.1 Either party may terminate this Agreement at any time, without cause upon providing the other party 30 days written notice, or with cause upon providing the other party 3-days written notice, or by mutual agreement. Any written notice of termination shall be delivered to the party representative via electronic transmission, with a copy to follow by first class mail.

5.10.2 In the event of the death or disability of CONTRACTOR, this Agreement may be terminated by the Tribe, and the Tribe shall pay to the administrator or personal representative of CONTRACTOR's estate any compensation due CONTRACTOR hereunder.

**5.11 Third Party Beneficiary.** No third party shall be a beneficiary of a party's rights or benefits under this Agreement.

**5.12 Time is of the Essence.** Time is of the essence for all purposes of this Agreement.

- 5.13 Force Majeure.** In the event of a Force Majeure, the parties shall be relieved of their respective obligations affected by such Force Majeure (other than an obligation to pay any fees or other amounts accruing prior to the occurrence of the Force Majeure) to the extent that and for so long as, such parties are prevented, hindered or delayed in the performance of such obligations by such Force Majeure, but only if the party so affected gives prompt notice to the other party upon discovery of such act or condition and promptly exercises commercially reasonable efforts to overcome or cure such act or condition to the extent it is within its power to effect such cure.
- 5.14 No Representations.** Each party acknowledges and agrees that it has not relied upon any statements, representations, contracts, agreements or warranties except such as are expressed in this Agreement.
- 5.15 Good Faith and Fair Dealing.** Each party agrees to act in good faith in dealing with one another pursuant to this Agreement, and each party hereby covenants to the other that it shall not undermine the rights of the other Party hereto with respect to the Agreement.
- 5.16 Counterparts.** This Agreement may be signed in counterparts, each of which may be deemed an original, and all of which together constitute one and the same agreement. Digitized or electronic signatures that are duly affixed with the knowledge and consent of the individual whose signature is represented will be deemed valid for all purposes. Delivery of a signed counterpart in any digitized or electronic format (e.g., PDF) by electronic mail or other electronic means, or delivery of a signed counterpart by facsimile, will be deemed effective delivery for all purposes.
- 5.17** CONTRACTOR hereby expressly agrees that, notwithstanding any provision of any agreement between CONTRACTOR and the Tribe, CONTRACTOR shall have no lawful recourse or right to enforce any claim, judgment, relief or remedies related to or arising out of this Agreement, including a claim for damages or other payment, against any of the Tribe's Class II or Class III gaming assets, the Tribe's gaming business, or revenues of the Tribe's gaming business.

***[Signature Page to Follow]***

IN WITNESS HEREOF, we the undersigned have executed this Agreement:

THE SPOKANE TRIBE OF INDIANS

CONTRACTOR

By: \_\_\_\_\_  
[NAME]  
[INSERT TITLE]

By: \_\_\_\_\_  
[NAME]  
[INSERT TITLE]

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

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

Attachments

Attachment A  
Attachment B

Scope of Work  
Compensation Schedule

ASSIGNED CONTRACT#: _____ CONTRACTOR MUST INCLUDE THIS NUMBER ON INVOICE(S)
FUND/PROGRAM/ACCT# _____ _____
MAXIMUM COMPENSATION AMOUNT: _____

## ATTACHMENT A SCOPE OF WORK

Contractor shall provide all services and labor required for planting of tree seedlings on the Spokane Indian Reservation as more fully set forth below.

Because tree survival and growth is dependent upon proper soil and weather conditions at the time of planting and because these conditions will only prevail for a limited length of time, it is imperative that work be started promptly after conditions for planting becomes suitable.

The parties agree that all of the duties and projects to be performed pursuant to this agreement shall be performed by the Contractor and not by any subcontractor or other third parties unless agreed to in writing prior to the awarding of the bid. The Contractor is ultimately responsible for fulfilling the terms and obligations of this contract, regardless of whether or not subcontractors are allowed.

The Contractor will be required to meet with the COR prior to the commencement of work to discuss work performance requirements and work progress schedules. The Tribes COR is George Teters and he can be reached at (509) 626-4445.

The normal planting dates shown on the Planting Data Sheets for each unit may vary widely according to weather conditions. Contractor shall have sufficient equipment and crew available when weather conditions are suitable for planting all areas within the allotted contract time and before the weather inhibits access or causes conditions when planting is not feasible (high temperatures and low soil moisture).

Due to normal variations in seasonal weather conditions, the Agreement starting date(s) may be adjusted with approval from the CO.

### **A-6 Daily Production**

The Contractor's continuous production shall equal or exceed 5000 trees per day. Failure to comply with the daily production rate within three calendar days after written Notice of Non-Compliance from the COR may result in partial or complete termination of Contractor's right to proceed.

### **A-7 Schedule of Work**

The COR will assign the sequential order of the units to be planted and a schedule of when these are to be completed. The schedule may be modified by the Officer-in-Charge with a minimum of one day's notice to the Contractor. Once work has begun on a unit, the Contractor shall be required to complete that unit before starting another unit.

### **A-8 Bond**

The Contractor will be required to furnish a performance bond (US currency) in the amount of twenty-five percent (25%) of the total Agreement price at least 2-days prior to work commencing. Bonds may be in the form of a certified check, cashier's check, bank draft, surety, or irrevocable

Letter of Credit payable to the Spokane Tribe of Indians.

**A-10 Location and Description of Units**

Location - The Agreement work areas are shown on the attached planting unit map located in Appendix II.

Accessibility - The work areas may be reached by forest roads that are accessible by standard 4-wheel drive vehicles, weather permitting. If roads become inaccessible due to snow, fallen trees, etc., the COR at his option may direct the Contractor to use other access routes, open the road, delete affected units from the Agreement, or substitute other units for planting. No payment will be made for deleted units except for work acceptably completed prior to deletion. No vehicles will be allowed to operate off system roads without approval of the CO.

Boundaries - The boundaries are shown on the attached planting unit maps. Planting unit boundaries such as fence lines and roads are usually obvious on the ground. Boundaries that are not obvious are designated by ribbon for planting areas. A COR will clarify and designate the boundaries on the ground should questions arise.

**A-11 Pre-work Meeting**

A pre-work meeting will be scheduled with the Contractor after the Agreement has been signed by all parties. It is recommended that both the Contractor and the Contractor's Representative be present at the pre-work meeting. The CO and COR will meet with the Contractor to discuss the Agreement requirements, and to answer any questions that the Contractor may have. Contractor's proof of insurance and performance bond must be submitted to the Tribe at the pre-work meeting.

The Contractor will discuss a work plan with the tribal Forestry Representatives. The work plan will contain a daily work schedule outlining the days of the week, holidays and hours the Contractor's crew will work, the order in which inspection items will be completed, the average number of employees and the average number of seedlings to be planted on a daily basis. This information will establish a schedule that will be used to evaluate the Contractor's progress.

**A-12 Contractor's Obligations**

The Contractor shall furnish all transportation, labor, supervision, supplies, materials, tools, equipment, and incidentals necessary to complete the work on time, except those to be furnished by the Spokane Tribe as stated in Section A-14 herein.

**Contractor's Representative**

- a. The Contractor shall designate, in writing, a person to act for him during his absence from the work site, and the limits of his representative's authority. This designated Contractor's Representative will also be the non-planting foreman unless the crew size is less than 10. The Contractor or his authorized representative shall be on the project area whenever work is in progress.
- b. The Contractor's Representative must be fully conversant in the English language and able to be understood by all members of the planting crew. Tribal Forestry will not provide a translator for communication purposes under this Agreement.
- c. Two (2) or more repeated failures of the Agreement or his Representative to arrive daily at the agreed upon time may result in being assessed administrative costs of \$200.00 / day.

## **Crew Supervision**

One non-planting foreman shall be designated by the Contractor to accompany each crew of 10 to 20 planters. This non-planting foreman may also be the designated Contractor's Representative. The COR or his representative may authorize crews smaller than 10, and detach or split crews as deemed necessary. On crews of less than 10 planters, the foreman may plant.

Crews shall plant in a planting area as a single work force without splitting the crew to work in separate parts of the same planting area concurrently.

Planting shall be performed in an organized, systematic manner. Crewmembers shall not be scattered within or between units except as necessitated by on-the-ground conditions and only when authorized by the COR.

The Contractor shall immediately notify the COR or his representative of changes in his established daily work schedule.

The Contractor agrees to complete all planting under this Agreement within the Agreement time listed under the schedule of items for each bid unit. The Contractor will pay for all administrative costs incurred beyond the expiration of the Agreement time listed on the planting data sheets for the bid item or items awarded to the Contractor until the Agreement is completed or terminated. Such costs include, but are not limited to, inspector pay, fuel costs, and overtime pay. The Contractor will pay \$200.00 per day for each day beyond the expiration of the Agreement time until completion or termination of the Agreement.

The COR will periodically evaluate the Contractor's progress towards completing the Agreement within the Agreement time period. This evaluation may occur daily, but will occur at least when one quarter (1/4) of the Agreement time has elapsed. At that time the COR will make recommendations, if necessary, concerning the number of planters, effective use of available time, or on other relevant factors which may aid in the completion of the Agreement as scheduled. Refer to Section C-1 "Requirements" herein for clarification.

If the needed improvements as recommended are not made within three calendar days, the Agreement may be terminated. In such a case the original Contractor's bond will be required to pay any increased planting costs incurred by the Tribe in order to complete the planting Agreement.

### **A-13 Suspension and Schedule of Work**

The COR may order the Contractor in writing to suspend, delay or interrupt all or any part of the work of this Agreement for a period of time that the COR determines appropriate or is necessitated by the Tribe.

If the performance of all or part of the work is suspended, delayed, or interrupted for an unreasonable period of time by the COR, he has the right to adjust the Agreement period, if necessary. Whenever the COR determines that the temperature, humidity, soil moisture, wind, or a combination of these and other physical conditions have become unsuitable for tree survival on any area, he will issue a Suspend Work Order. When conditions are again favorable, the COR will issue a verbal Resume Work Order. It is the Contractor's responsibility to keep the COR currently advised as to where the Contractor's representative may be reached by telephone during periods of work suspension. If the Contractor fails to leave a number, a written Resume Work Order will be mailed and the count of Agreement time will resume on the date of the Resume Work Order.

Frost, adverse air temperatures, and excessive wind speeds are deemed to be short-term conditions and no adjustments in Agreement time will be made if the planting operations are suspended temporarily as a result of these conditions.

If the COR suspends planting due to snow depth and the Contractor is unable to plant any of the remaining units in his contract due to excessive snow depth, the COR may adjust the Agreement time or adjust the units in the Agreement. This may include substituting, adding or dropping units from the Agreement.

**A-14 Spokane Tribe Furnished Property and Services**

The Spokane Tribe shall deliver to the Contractor the following listed materials, supplies, property, or services (hereinafter referred to as "tribal furnished property"), at the places and time specified below.

The Contractor shall be financially liable for all loss or damage of such delivered tribal furnished property through the completion and final acceptance of work specified in this Agreement.

If the Spokane Tribe fails to make timely delivery of such Tribal furnished property suitable for its intended use and upon written request from the Contractor, the CO shall make an equitable adjustment of Agreement delivery, performance dates and/or Agreement price.

Tree Stock

The Spokane Tribe will furnish trees. See planting Data Sheets (Appendix I) for species of stock and age of seedlings to be planted. The COR or his representative will deliver the seedlings to the planting site. Delivery will be made to the point of vehicle accessibility nearest the unit boundary unless other points are mutually agreed to by the COR and the Contractor. If necessitated by availability of stock, COR may substitute a species of the same stock or container size other than that listed on the planting data sheets; no adjustment in Agreement price will be made for such substitutions. Planting of the units listed in the Agreement is subject to stock availability. Payment will be made based on Agreement bid prices, seedlings planted and the other provisions of this Agreement. Bid prices will not be renegotiated or adjusted due to units being excluded due to insufficient stock or incidentals beyond the Tribe's control.

Materials and Supplies

Where the Tribe furnishes containerized tree seedlings, the Contractor shall be responsible for returning the container to the COR, who will credit the Contractor with the number returned. The Contractor shall be charged \$2.50 for each storage container (box) not returned or that is returned damaged.

**DIVISION B - TECHNICAL SPECIFICATIONS**

**B-1 Field Specifications**

The following sections are the field specifications for tree planting on the Spokane Reservation. Failure on the part of the Contractor to follow specifications will lead to corrective actions to ensure proper treatment and planting of trees by the Contractor. Appropriate sanctions include: 1) a verbal warning; 2) a written warning from the COR; and 3) further responses per tribal policies including but not limited to fines or termination of the Agreement.

**B-2 Weather**

The COR or SCOR will maintain weather records throughout the course of planting operations and inform the Contractor if weather conditions warrant a change in the work plan or work suspension if the following conditions occur:

- a. The soil is not moist in the top ten inches of soil.
- b. The soil is frozen more than 1/2 inch deep.

- c. Snow cover is greater than two inches.
- d. Air temperature is under thirty (30) degrees or over sixty-five (65) degrees Fahrenheit.
- e. Wind velocity is more than twenty (20) mph; except for occasional gust over twenty mph.
- f. Weather conditions exceed the recommended guidelines as shown in Appendix C.
- g. Soil temperatures at eight to twelve inches below soil surface are below 40 degrees Fahrenheit.

**B-3 Care of Trees**

From the time of delivery to the Contractor, trees shall be kept free from damage at all times, including but not limited to drying, heating, smothering, freezing, drowning, or mechanical injury. Failure to perform tree care may result in termination of this Agreement. The Contractor must observe the following rules.

- a. Trees will be shaded from the sun and shielded from drying winds at all times.
- b. Tree storage containers will be stored in a manner to provide air circulation around each one.
- c. Trees will be kept damp at all times but not allowed to stand or lie in water.
- d. Tree storage containers will not be removed from storage or opened except as needed to fill individual tree planting bags.
- e. At the end of the day, leftover trees will be returned to the COR or his representative. On the following day, these leftover trees will be planted first.
- f. Trees carried by planters shall be in a planting bag and arranged for easy removal of the tree's one tree at a time. Roots shall be kept moist at all times while in the planting bag.
- g. Gasoline or oil shall not be carried with trees in the storage container, nor shall a storage container or planting bag contaminated with gas or oil be used to carry trees for planting.
- h. At the planting spot, roots shall not be unnecessarily exposed to drying conditions. A tree shall not be removed from the planting bag before a planting hole has been prepared.
- i. Trees shall be planted as received without further root or top pruning or culling. If these operations appear necessary, or if mold, dry roots, freezing, drying, or evidence of other injury is observed, the conditions shall be promptly reported to the COR or the SCOR. Care will be taken to prevent removal or damage to the terminal buds.
- j. No sitting on or throwing of seedlings, storage containers or bags.
- k. No lunch breaks with seedlings in the planter's bag unless authorized by the COR.
- l. Wasted trees due to improper tree stock handling or negligence by the Contractor will be charged to the Contractor
- m. Trees designated for a unit shall not be planted in another unit without the COR's approval. Seedlings planted on another unit without the COR's approval, if it is determined to be the fault of the Contractor, shall be counted as wasted trees and will be charged to the Contractor.
- n. The COR will determine the maximum number of seedlings, which may be carried in the



planting bags or containers used. The basis for his decision will include the following:

- (1) The number of trees that can easily be placed in and removed from the containers without injury to the roots, foliage and stem buds.
- (2) The number of trees which can be planted before critical heating or drying of the seedlings can occur. The limit of time trees can be kept in containers may be determined as follows:

	Calm Days*	Container time on---- (HOURS)	Windy Days*
	-----	-----	-----
High Humidity: Over 40%			
Cool (under 55 F.)	8		4
Warm (55 - 70 F.)	4		2
Hot (over 70 F.)	2		1
Low Humidity: Less than 40 %			
Cool (under 55 F.)	2		1
Warm (55 - 70 F.)	2		1
Hot (over 70 F.)	1		1

- On clear days, direct radiation will increase the heat load on planting containers, and at the discretion of the COR, shorter holding periods may be required.

**B-4    Spacing**

Trees shall be planted at the intervals distributed over the unit area as prescribed on the planting data sheets. In selecting a suitable planting area for each individual tree, the specified average spacing may be varied by as much as half of the specified distance in any direction. Where an un-plantable area is encountered, the planter shall disregard spacing lists and plant in the closest suitable spot, however, average spacing shall be maintained for the unit and the number of trees per acre shall not be materially increased or decreased by this method. No tree shall be planted closer than half the specified average spacing distance from planted or suitably established trees.

Where a road is the planting unit boundary or where roads pass through planting units, the line of trees nearest the road will be planted no further than 4 feet from the edge of the road. No trees shall be planted in unsatisfactory spots.

**B-5    Planting Spot Selection**

A satisfactory planting spot is one in which a tree can be planted in accordance with planting specifications.

Areas such as rock, compacted road surfaces and swamps are not considered satisfactory planting spots unless otherwise specified on the planting data sheets. A minimum of 3 attempts, no less than 9 inches apart, shall be made at each planting spot. If an un-plantable spot is encountered, the planter will plant in the nearest plantable spot available no closer than 6 feet from another planted tree.

Brush patches containing satisfactory planting spots as defined in Section B-1, shall be planted even though this may require spreading stems aside or working around the stems planting no closer than one foot from the drip line of any willow bush. Landings shall be planted where satisfactory planting spots exist.

### Micro-sites (MRS) - All units require micro-siting

Where possible, within requirements set forth in B-4, planting spots shall be where stumps, logs, dead brush, and terrain features provide partial protection from sun, wind, animals, loose debris, and other agents detrimental to tree survival. Planting spots shall be selected on the north to east sides of stumps, dead brush, logs, rocks, and terrain features where partial tree protection from wind, animals, moving debris, and the midday to afternoon sun is provided (micro-siting) (see exhibit B). The Contractor, staying within the spacing requirements, shall plant the seedlings in the best available micro-sites to protect the trees from heat, desiccation, or moving debris. Micro-sites trees must be at least six feet apart on a plot and must be within 4 inches of the seedling's source of protection. Where rocks and wood debris are used, a minimum diameter of 4 inches around seedlings is needed to create a micro-site. Trees planted in the open when stationary shade is available within the spacing allocation will be designated as improperly planted trees.

### Shade-blocking (SBLK)

Where micro-sitting is not an option within the spacing allocation, or because of un-plantable ground a tree shall be planted at a distance greater than 4 inches, and artificial shade (shade-blocking) shall be used. Planters shall shade the seedlings on the southwest side by placing the largest available transportable organic material (wood or rock) to shade the seedling. The shading material shall be placed within 1/2 of the specified spacing distance, and shall be a minimum of 4 inches in diameter. Shade blocks shall be placed so the seedling's stem is shaded at the ground level. Each shade block shall be placed as close as possible without damaging the seedling. Artificial shade shall never be placed on the uphill side of the tree.

Trees planted in the open when stationary or artificial shade is available or is not placed correctly, as stated in these specifications, will be designated as improperly planted trees.

### Ash and Burn Piles

Ash and burn piles shall be planted as if they are a normal part of the unit. When possible, normal spacing of seedlings is required in these piles, as called for in each unit's specifications. Scalping will be to a 4" maximum depth as stated in section B-6.

## **B-6 Clearing and Scalping**

Clearing - Prior to preparing the planting hole, Contractor shall clear the planting spot of all limbs, logs, snow, bark, rotten wood, rocks and other loose debris. Clearing dimensions are shown on the Planting Data Sheets.

The Contractor shall cut or clear away any brush or slash that overtops a planting spot.

1. Planting spots shall be scalped of all dry soil, humus, debris, duff, ashes, snow, frost, and all vegetative material including the crown and roots of living plants so as to expose bare mineral soil. The size of scalps shall be as follows unless otherwise stated on the Planting Data Sheets:

1 square foot - in areas where grasses or sedges are present.

1 square foot - in areas where green vegetative material other than grasses or sedges are present. All unburned units where no grass is present require a minimum 1-foot scalp.

6-inch diameter - in burned areas where no living vegetation is on the planting spot, but

where ash, duff, litter, snow, frost and dry soils are present.

A minimum 6-inch diameter scalp will be made with the hoe blade to prevent this type of material from falling into the planting hole.

Scalping depth shall be measured from the ground surface. Except as noted on the Planting Data Sheets, the maximum depth shall normally be 4 inches. If vegetation is present, cut or scalp all vegetation (including roots and above ground branches) to moist, mineral soil.

2. Spacing between any two planting spots may vary up to 50 percent to take advantage of openings, but overall spacing of planting spots will average the spacing requirements listed on the Planting Data Sheet. Repeated failure to adhere to this spacing may be grounds for termination of the Agreement.
3. Contractor may use any reasonable method he/she wishes to clear the planting spots (i.e. power saws, pulling slash by hand, etc.), provided the method is acceptable to the COR. Planting spots can be prepared only in conjunction with planting operations.

#### **B-7 Preparing the Planting Hole**

For container stock planted with a hoedad, the hole shall be broken out slightly deeper than the root length and wide enough to fully accommodate the roots of the tree being planted. The hole shall be perpendicular to the ground surface on flat ground, and shall be located near the center of the scalped area. No debris will be allowed in the hole. On steep slopes the Contractor will cup the slope so the tree will be planted on a horizontal plane in the center of the scalped area. (See Exhibit B-2)

Slit planting is not acceptable. (See Exhibit B-3)

#### **B-8 Tree Placement (See Exhibit B-4)**

The tree shall be suspended near the center of the hole with roots in a natural arrangement. After filling, packing, and leveling the soil, the root collar of the planted tree must be 1 inch below the soil line.

The hoedad's blade will not be used to directly place tree roots into position. No portion of the roots shall be exposed. Only moist soil will be placed against the tree roots. Dry soil, ash, organic matter, large rocks, and other foreign material will be kept out of the holes.

The roots shall not be doubled up (i.e. "J" or "L" shapes), twisted, tangled or bunched.

The stems of planted trees will be upright, perpendicular to the ground.

Container plugs shall be placed intact into the center of the prepared hole deep enough so that a minimum of 1 inch of soil can be placed on the top of the plug and leveled with the surrounding soil surfaces. The seedling will be planted deep enough so that the soil level after planting is at a maximum to the lowest green needles of the tree stem.

**B-9 Firmness**

Moist mineral soil shall be filled in and firmed around the roots or plug. Soil shall be filled in and firmed progressively so no loose soil or air pockets remain. Soil firming will be such that the trees will not pull loose when the stem is grasped between the thumb and forefinger and jerked upward.

The tree will not be wedged against the back of the hole. The back of the hole shall be broken out with the planting tool to allow the soil to fall into the hole behind the tree before the front of the hole is filled in. Enough soil must be left between the tree roots and compaction tool to prevent damage to the tree or roots.

**B-10 Mixture of Species**

On units where more than one species is to be planted, seedlings shall be planted as directed by COR.

**DIVISION C - INSPECTION AND ACCEPTANCE OF SERVICES**

**C-1 Requirements**

Tribal Requirements:

The Tribe will inspect planting to determine compliance with specifications and to provide the basis for computing the rate of payment. Inspections will consist of intermittent and/or continuous observations of tree handling, site preparations, and planting procedures while work is underway, and examination of individual trees and planting areas so as to obtain a representative sample of the Contractor's work. Inspections will sample approximately 2% of the work performed by the Contractor.

Each Agreement pay item will be inspected separately and inspection results will not be averaged with those of other Agreement pay items. Should the Contractor use more than one crew on a pay item, the inspection data will be combined to determine the overall percentage for the pay item. The COR will not provide separate results of planting quality nor acres planted by each crew for areas listed under each pay item.

Determination of the acceptability of the work performed will be based on these inspections, which will be considered conclusive, except as otherwise provided in the Agreement. Payment shall be based on the Tribal inspections and is outlined in Division D. The Contractor or his representative is encouraged to observe inspections while they are underway.

**C-2 Care of Trees**

Ongoing operations will be inspected to assure compliance with Section B-3, Care of Trees. Trees that are handled in a manner inconsistent with these specifications will be declared "wasted" trees, and may be cause for termination of the Agreement.

**C-3 Planting Quality**

Tribal inspectors will examine planting procedures. Planted seedlings of representative sample plots shall be examined to assure compliance with specifications for planting quality. Failure by the Contractor to meet the minimal passing percentage (Section C-5) on one or more pay items will be cause for the Tribe to review the situation for default of Agreement. Specific pay items include:

- a. Above Ground:
  - 1. Spacing, (plus or minus 6 feet, in any direction).

2. Planting spot selection, MRS or SBLK (if required on a specified unit.)
  3. Site preparation, (scalp size and quality).
  4. Tree location on spot, (near the center of the scalped area and scalp is sufficient size on all sides of seedling).
  5. Planting depth, (Soil level at least 1 inch above root collar or top of plug; no roots exposed; no depressions near the tree).
  6. Stem position and damage, (within 15 degree of vertical; no bark injury).
  7. Firmness.
- b. Below Ground
1. Planting hole orientation, (with 15 degrees of vertical).
  2. Root configuration and orientation, (downward pointing, no J or L shapes).
  3. Altered root length or damage, (root length to average 7 inches for Styro 5 and 8 inches Styro 10 seedlings).
  4. "Foreign" material in planting hole, (material other than moist mineral soil).
  5. Soil firming around roots, (air pockets, loose soil).

**C-4. Planting Inspection Procedures**

a. Frequency of Plot Inspection

The inspector will mark on the ground a series of plots sufficient in number to yield at least the following:

<u>Acres in Pay Item</u>	<u>Maximum Number of Plots</u>
1 through 39	1 plot per acre
40 through 80	40 plots
81 and over	1 plot per 2 acres

Plots will be distributed over the entire area.

b. Plot Installation – (USE PLANTING INSPECTION SHEET for column references “PIS “ );

1. Locate and mark the plot center on the ground.
2. Determine maximum planting **spots** for plots using Table 1, and record in column 2
3. Determine un-plantable **spots** within plots and record in column 3 “ PIS “
4. Subtract column 3 from column 2 to obtain plantable **spots**, and record in column 4 “ PIS “

SPECIFIED SPACING	TABLE 1 MAX. PLANTING SPOTS ON 1/50 ACRE PLOTS		MAXIMUM NUMBER OF TREES 1/50 ACRE PLOTS	
	(1)		(2)	
8x8		14		16
9x9		11		13
10x10		9		10
11x11		7		8
12X12		6		7

TABLE 2			
<u>Plantable Spots</u>	<u>Maximum No. of Allowable Tree</u>	<u>Plantable Spots</u>	<u>Maximum No. of Allowable Tree</u>
1	1	8	9
2	2	9	10
3	4	10	11
4	5	11	12
5	6	12	13
6	7	13	15
7	8	14	16
8	9	15	17

- Use table 2 above and number of **plantable spots** in column 4 of Planting Inspection Sheet to determine the maximum number of **allowable trees** for column 5.
- Determine and record the number of trees planted on the plot. This is done by taking a 1/50 acre plot. The radius of the circular plot is 16.7 feet on a horizontal plane. This is not slope distance. Hold a tape measure at plot center then count the planted trees as they are intersected by the plane formed by the tape while proceeding clockwise around the plot from true north. Record in column 6 " PIS "
- Determine the number of wasted trees, column 6 minus column 5; record the result in column 7. If the value is greater than zero, wasted trees should be specifically identified, when possible. If the wasted trees cannot be specifically identified on the ground it is assumed that the wasted trees are the last trees counted in step 6. Wasted trees should not be further inspected.

When planted wasted trees are found, and they are considered minor in nature and in no way indicate a trend that average spacing requirements are being exceeded, the COR will waive the wasted tree charge. In no case will a waiver be given if the total of the inspection form column 6 "Planted Trees" exceeds the total of column 5 "maximum number of allowable trees" for any sub-item. When wasted trees are not minor and indicate a trend that the average spacing requirements are being exceeded, wasted trees shall be calculated and a fee charged to the Contractor.

8. The planted trees for above ground specification compliance will be inspected. The number of trees that have been satisfactorily planted will be recorded in column 8 "PIS".

9. The following table will be used to determine the number of trees to be dug:

Number of Satisfactory (Above Ground) Planted Trees on Plot	Minimum No. To Be Dug 1/50 <sup>th</sup> Acre Plot
1	1
2-6	2
7-9	3
10-12	4
13 plus	5

The trees to be dug will be the acceptable above ground trees closest to the plot center. Seedlings that are unsatisfactorily above ground will not be dug. The number to be dug will be recorded in column 9 "PIS" (no. dug trees).

10. The number of trees meeting below ground Agreement specifications will be recorded in column 10 "PIS" of the planting inspection sheets.

11. The planting quality shall be computed for each plot, unit and pay item by using the following formula on the Planting Inspection Sheet:

Planting Quality % =

$$\frac{\text{No. of Sat. Trees above Ground}}{\text{No. of Plantable Spots}} \times \frac{\text{No. of Sat. Dug Tree}}{\text{No. of Dug Trees}} \times 100$$

Col 8
Col 10

-----
-----

Col 4
Col 9

12. The planting quality percentage for each plot will be recorded at the far right-hand side of the inspection sheet in comment column. The planting quality % for the unit and pay item will be recorded (only when each has been completed by the Contractor) at the bottom of the planting sheet. The percentages will be marked.

- Note: Average planting spots and maximum number of allowable trees shown in table 1 and 2 have been rounded to the nearest whole number and it is mutually understood and agreed that these figures will be used for determining planting quality even though they are not precisely correct from a mathematical standpoint.

**C-5 TRIBAL INSPECTION AND ACCEPTANCE**

The Tribe will sample each pay item to verify the quality of the Contractor's planting. Inspections will follow the previously outlined procedure to determine the Contractor's planting quality. The planting quality percentage as calculated in section C-4 shall be rounded to the nearest whole percent. Upon completion of each pay item, the inspector will turn in the inspection results to the COR, who will check all the mathematical results. He will then turn those results over to the CO. The inspection results for the pay item will be made available, at the Contractor's request, within a maximum of two work days after completion of planting by the Contractor.

a. Acceptance of Work Performed

The Contractor's work will be 100% acceptable if the pay item's overall planting quality is 95% or better. Planting quality of 94 to 85% will be considered acceptable for the units, however payment will be lowered to reflect the lower quality (see Division D - Payment).

b. Unsatisfactory Planting Conditions

1. On-site - The inspector will install and calculate the planting percentage for each individual plot. Anytime the planting quality on three consecutive individual plots falls below 80%, the planted area represented by those plots shall be considered unsatisfactory / unacceptable.

When this condition (3 consecutive poor plots) occurs, the Contractor's crew will be required to immediately stop planting the remainder of the unit and rework the acreage where the poor inspection plots are located. The inspector shall designate this area either verbally or physically identify. While the acreage is being reworked the tribal inspector shall install new plots within this acreage. The new plots will sample both the original and newly planted trees. An acreage shall only be reworked once and the new plots will be used to calculate that portion of the pay item's overall percentage.

2. Pay Item - Overall planting quality that is below 85% will be considered unsatisfactory/unacceptable and payment on that pay item will be forfeited. If the planting quality percentage for any item falls below the minimal acceptable percent, the Contractor may be allowed to rework all or part of the pay item in order to achieve a higher planting quality percentage. Reworking will be subject to the decision of the COR and the availability of tree stock. The Contractor must request reworking in writing within 5 calendar days from receipt of notice of payment results. Replanting, if allowed, will be done a maximum of one time, and new inspection plots will be installed.

c. Re-inspection upon Contractor's Request

If the original overall inspection results are unacceptable to the Contractor, a second inspection may be requested. Requests for re-inspection must be made in writing within 5 days after receipt of notice of the initial inspection results. The same inspection procedure will be used but new plots will be selected. The inspection pattern will be shifted so new inspection plots will not overlap previously inspected plots.

d. Payment for Re-inspection by Contractor

If the results of the re-inspection rounded to the nearest whole percent are within 5 percentage points of the previous inspection, the Contractor shall pay the actual cost of the re-inspection. Re-inspection costs shall include, but not be limited to: the inspector's wages and travel costs incurred for inspection. Final payment on the pay item will be based on the Tribes re-inspection percentage.



# ATTACHMENT B COMPENSATION SCHEDULE

## **DIVISION D - PAYMENT AND MEASUREMENT**

### **D-1 Payment**

Payments will be made using the percentage results of the Tribal inspector's inspections, provided the Contractor meets the satisfactory criteria set out in section B and C-5. On unsatisfactory pay items, the Contractor shall be notified by the COR, in writing, that the quality was below requirements. The Contractor shall initiate payment for units completed and can submit invoices once every week for completed units only.

The contractor shall perform the following planting work in accordance with this Agreement and Agreement documents. Compensation will be covered utilizing the following budgets: 4414-1191, 4414-1294, 1000-1110, totaling an amount not to exceed \$150,000.

<b>Unit Name</b>	<b>Est. /Acres</b>	<b>Est. /Trees</b>	<b>\$/Tree</b>	<b>Est. /Cost (US)</b>
2024 Planting	250-275	90k-100k		\$55,000
2025 Planting	220-250	80k-90k		\$50,000
2026 Planting	190-220	70k-80k		\$45,000

(Based on 360 trees per acre)

a. **Method of Payment**

Payment, less deductions (wasted trees, etc.) will be made for completed units of work at the unit Agreement price wherever the quality of planting is at or over 95%, based on inspections as outlined in Section C-5. Where inspection determines planting quality below the 95% acceptable level, a scale system of payment will apply. Where quality falls below the minimal acceptable percent, no payment will be made for the work. The following table (Table 3) is the payment schedules for the representative planting stock types:

TABLE 3 – Payment Schedule

<u>Planting Quality (%)</u>	<u>% of Full Payment</u>
95+	100
94	97
93	94
92	91
91	88
90	85
89	82
88	79

87  
86  
85  
84 - 0

76  
73  
70  
NO PAYMENT

b. Payment Example

Assume a unit bid price of \$.25 per tree and a hoedad bid item planting quality of 86 percent: Deduct 27 percent (3 percent for each 1 percent quality is below 95 percent); 100 percent - 27 percent = 73 percent pay rate per acre, 73 percent x \$.25 per tree = \$.18 per tree.

c. Wasted Trees

Payment will be adjusted for wasted trees as shown below for all trees which are lost, damaged, or planted on units other than those specified by the COR, or handled contrary to the specifications for care of trees and planted in excess of the maximum number of trees creditable as shown in Table 2, Section C-4. In areas that are replanted as a result of poor planting quality, the Contractor's payment will be reduced in accordance with the number of seedlings exceeding the maximum number of allowable trees as shown in Table 2, Section C-4. The payment reduction will be determined by using the method below. The Contractor will be charged at the rate of: (Nursery cost plus bid value per tree)

Plugs, styro 5's:	\$.15 plus bid value per tree
Plugs, styro 6's:	\$.27 plus bid value per tree
Plugs, styro 7's:	\$.29 plus bid value per tree
Plugs, styro 8's:	\$.33 plus bid value per tree
Plugs, styro 10's:	\$.39 plus bid value per tree
Plugs, styro 15's:	\$.50 plus bid value per tree
Plugs, styro 20's:	\$.59 plus bid value per tree
Plugs, styro 30's:	\$.63 plus bid value per tree
Bare root	\$.46 plus bid value per tree

d. *Trash and Refuse Removal*

The Contractor shall remove all trash and refuse from the project area. Any disabled vehicle(s) belonging to the Contractor or an employee of the Contractor shall be removed from the Spokane Indian Reservation forest. Should the Contractor fail to satisfactorily perform the provisions of this section, the cost of removal of the remaining trash and refuse shall be deducted from the final payment.

**D-2 Acreege Measurement**

a. Method of Measurement

The area to be planted and paid for is enclosed by flagged line or along fire lines and roads. Unit boundaries will be GPS'd or digitized for computing acreages. Data collected will be transferred into the GIS system to a map theme for completed units.

b. Re-measurement

Re-measurement of the acreage under this Agreement will be made upon the written request of the contractor. Request for re-measurement must be made in writing within 5 days after planting has been completed on the unit.

If the re-measurement indicates a difference of not more than 5% from original

measurement, the contractor will pay the actual cost of re-measurement. Payments will be based on the second measurement where the difference between measurements is more than 5%. Where the difference is less than 5% the results of the first measurement will be used. Payment will be made to the nearest acre.

SAMPLE