Conditions of Tender
For Operational and General Services Contracts

The bidder (**the 'Bidder'**) must observe the following Conditions of Tender (**the 'Conditions'**) and these Conditions form part of every Irrevocable Tender Offer (**the 'Tender'**) made by the Bidder. Failure to comply with these Conditions and those contained in the Tender may result in the disqualification of the Bidder. The defined terms in these Conditions have the same meaning as the same terms in the Tender.

1. Tender

1.01 The Tender is in response to an Invitation to Tender (**the 'Invitation to Tender'**) for **Overstory Removal of Mountian Pine Beetle in the Nadina Forest District** issued by Chinook Community Forest (**the 'CCF'**) and must be received by the CCF on the form provided not later than **Sept 14, 2020 at 2:30 PM** (local time).

The address for ground delivery is 485 16 Highway West, Burns Lake, B.C., V0J 1E0 and the mailing address for postal delivery is Box 969, Burns Lake BC V0J 1E0 (**the 'Closing Location'**).

1.02 All Tenders submitted in accordance with these Conditions are irrevocable for a period of 30 days following the tender opening (**the 'Tender Opening'**).

2. Site Viewing – Not required, encouraged to do so.

3. Information Meeting – Not required, by appointment if so desired.

4. Bidder Eligibility or Disqualification

4.01 In addition to the other eligibility requirements in these Conditions and the tender documents (**the 'Tender Documents'**), the Bidder, or its Key Personnel (individual(s) who would be responsible for the management of or performance of the services under the Contract), must meet the following requirement(s) in order to be eligible to bid:

(a) Additional Eligibility Requirements

(b) the Bidder must be:
- (i) Certified in the BC Forest Safety Council SAFE Company program; or
- (ii) Certified under another safety scheme recognized by BC Forest Safety Council

4.02 The Bidder must meet Chinooks requirements for experience and qualifications set out in the Tender Documents. Upon request, or if specifically required to be submitted with this Tender, the Bidder must provide, to the satisfaction of Chinook, proof:

(a) that the Bidder, including a partner(s) or Key Personnel, has previously and satisfactorily completed a project of the same type and size as the one described in the Tender Documents; or

(b) of the Bidder's, including a partner(s) or Key Personnel, prior employment in the same type of service as the one described in the Tender Documents.

(c) that the Bidder has, prior to the tender Closing Date, satisfied the requirements under Clause 4.01 relating to SAFE Company Program requirements.

4.03 If the Tender Documents indicate that a contractor performance rating system is in place within Chinook, the Bidder must, prior to submitting its Tender, determine and disclose in its Tender, the Bidder's status, including that of a partner(s) or Key Personnel, if applicable, within the applicable contractor rating system.

4.04 Upon request of Chinook, the Bidder must provide a written statement of business organization, qualifications, experience, workforce availability and citizenship status of the Bidder's company and each member of the workforce, including a partner(s) or Key Personnel, who will perform the Work under the Contract, satisfactory to Chinook. Chinook may conduct such independent reference checks or verifications as are deemed necessary by it, to clarify, test, or verify the information and to confirm the suitability of the Bidder, including reference checks from any Natural Resource Sector ministry or other Provincial government office in which the Bidder, a partner(s) or Key Personnel, has been under contract. If, in the opinion of Chinook, the statement fails to demonstrate that the Bidder is able to successfully complete the Contract, Chinook has the right to disqualify the Bidder and award the Contract to another bidder.

4.05 The Bidder and all individuals who perform the Services under the Contract must be eligible to work lawfully in Canada and upon request of Chinook any individual who performs Services under the Contract must provide a valid Social Insurance Number or Work Permit as proof of his or her eligibility.

4.06 Chinook reserves the right to disqualify the Bidder and to award the Contract to another bidder if the Bidder or an Associated Person to the Bidder has, in respect of a contract or contracts with Chinook:

(a) withdrawn an irrevocable tender;
(b) failed to enter into a contract within the time limits specified in a contract award letter;
(c) had a contract cancelled by Chinook;
(d) forfeited all or part of a bid security;
(e) breached a contract;
(f) had all or part of a contract performance security retained;
(g) had a charge assessed for failing to comply with the requirements of a previous contract; or
(h) been charged or convicted of any offense in respect of a contract or relating to a forest or environmental practice in British Columbia.

4.07 For the purposes of Paragraph 4.06, a person is associated to the Bidder (an 'Associated Person') if the Bidder and that other person are 'related persons' or 'affiliated persons' or 'associated persons' as those terms are defined or referenced in the federal *Income Tax Act* or related Canada Revenue Agency's interpretation bulletins. Upon request, the Bidder will provide Chinook with: (i) the ownership of voting shares of the incorporated Bidder, (ii) a list of individuals who exercise legal and/or operational control over the Bidder; and (iii) a notarized declaration that the Bidder is not an Associated Person in respect of a Disqualified Bidder nor is it in legal or operational control of, nor is it acting in concert with or at non-arms length with a Disqualified Bidder.

4.08 The Bidder may be disqualified from bidding on Chinook contracts for a period of **up to** 2 years from the date of any of the events in Paragraph 4.06, unless the Bidder demonstrates to the satisfaction of Chinook that the Bidder is able to successfully complete the Contract and the deficiencies which led to any of the events in Paragraph 4.06 have been corrected.

4.09 For the purposes of this Invitation to Tender, "Disqualified Bidder" means a person (individual or corporate) who has been disqualified from bidding by the Ministry for a stated period of time.

5. Bid Security Requirement

5.01 A bid security (**the 'Bid Security'**) is **Mandatory**. A bid security in an amount of not less than **Ten (10) percent** of the total bid price is required. The Bid Security must accompany the Tender and be in the form of cash, personal money order issued by a financial institution or postal money order issued by Canada Post Corporation, certified cheque or bank/credit union draft, made payable to the 'Chinook Community Forest'. Personal or company cheques, assignable bonds and notes, bearer bonds and notes or Canada Savings Bonds are not acceptable. No interest is payable on cash forms of security.

5.02 Where, due to a revision of the total bid price (**the 'Total Bid Price'**) or the total estimated bid price (**the 'Total Estimated Bid Price'**), an insufficient Bid Security is contained in the Tender envelope, the Tender will not be disqualified if the Bidder submits the outstanding Bid Security amount within two business days following the Tender Opening.

5.03 Bid securities will be returned to unsuccessful bidders upon signing of the Contract by the successful bidder (**the 'Successful Bidder'**).

6. Contract Performance Security Requirement

6.01 A contract performance security ('**the 'Contract Performance Security'**) is **Mandatory**. A Contract Performance Security in the amount of **Ten (10) percent or $10,000.00 whichever is highest of the total contract price is required**. The Successful Bidder must authorize the Bid Security to be cashed by Chinook and held as a Contract Performance Security or provide an alternate financial security instrument in place of the Bid Security in accordance with Paragraph 17.05 below.

7. Option to Renew

7.01 The Contract contains *an 'option to renew'* clause whereby the Ministry reserves the right to renew but is under no obligation to renew the Contract for a further Term of up to one year, to a maximum of three terms, subject to funding and satisfactory performance of the Contractor. As renewal is not assured, Bidders are cautioned to prepare their tender price on the basis of a single term contract only. Should the option-to-renew be exercised, the bid rate or bid price is expected to remain unchanged in the subsequent term unless, in Chinooks sole opinion, a negotiated rate change is warranted.

8. Bidder's Representations

8.01 It is the Bidder's sole responsibility to ensure that the Bidder has received all Tender Documents. Submission of the Tender by the Bidder is a representation by the Bidder that the Bidder has verified receipt of a complete set of Tender Documents including any and all addenda to the Tender Documents.

8.02 Submission of the Tender by the Bidder is a representation by the Bidder that the Bidder has investigated and satisfied itself of every condition affecting delivery of the Work, including every condition affecting the Work Site, and including every factor that may affect the Bidder's ability to perform the Contract in accordance with the Tender and the Tender Documents.

8.03 The Bidder further represents by submission of the Tender that the Bidder has made its own investigation and has relied solely upon its own knowledge, information, and judgment, and not upon any statement, representation or information made or given by Chinook or any of its employees, other than the information contained in the Tender Documents.

8.04 Submission of the Tender is deemed by the parties to be conclusive evidence that the Bidder has made such investigations and inquiries as the Bidder determines necessary and that the Bidder assumes all risk regarding any conditions affecting the Work.

8.05 The Bidder affirms it is not an Associated Person to, nor acting in concert with, a Disqualified Bidder and undertakes to not knowingly do so during the term of the Contract.

9. Tender Submission

9.01 The Tender must be on a completed original or unaltered copy of the Tender Offer Form. The Tender is to be submitted in the envelope provided or in an envelope clearly marked with the name and address of the Bidder and the words, "**Tender for Overstory Removal of Mountian Pine Beetle Kill Forest Stands in the Nadina Forest District**" on the envelope.

9.02 The Tender must be received at the Closing Location of Chinooks office not later than the date and time (**the 'Closing Date' and the 'Closing Time'**) specified in the Invitation to Tender. Chinook may, by giving notice, amend the Invitation to Tender and extend the Closing Date and Closing Time for receiving tenders.

9.03 Tenders submitted by facsimile, telegram or electronic submission WILL NOT BE ACCEPTED. Tenders received after the Closing Time will be returned to the Bidder unopened.

9.04 Chinooks, its employees, and agents assume no responsibility for the timely receipt of any tenders.

9.05 The Tender must be signed by the Bidder and should bear the date of signing. Witnessing of signatures is not required. If the Bidder is:

(a) a company, the full company name and the name(s), signature(s) and status of the authorized signing officer(s) must appear on the Tender but affixing the corporate seal is optional;

(b) a partnership, all the partners must sign and print their names on the Tender;

(c) a limited partnership, one or more of the general partners must sign and print their name(s) on the Tender and include the business name of the partnership (e.g., 'doing business as _____ Limited Partnership');

(d) an individual or sole proprietorship, the individual or sole proprietor must sign and print his or her name and, where appropriate, include the name of the sole proprietorship, (e.g., 'doing business as _____').

10. Tenders Complete and All Inclusive

10.01 The Bidder's Tender must be complete and must cover all of the Work specified in the Invitation to Tender and the Tender Documents. Unless otherwise indicated, all blank spaces on the Tender Offer Form must be legibly filled in.

10.02 Chinook may reject any tenders which contain any qualifying words, clauses, alterations, or omissions. Corrections to numbers in the Tender must be initialed by the authorized signatory of the Bidder.

10.03 The Tender must be inclusive of all of the Bidder's fees, overhead, profit, expenses of any kind, cash allowances, contingencies and any taxes (including taxes paid or payable by the Bidder to a supplier) that are in force on the Closing Date, but shall exclude the Goods and Services Tax (GST) and any applicable Provincial Sales Tax (PST) that the Bidder is required to charge the Province as a taxable transaction.

11. Addenda and Clarification of Tender Documents

11.01 If a Bidder finds any discrepancies, omissions, ambiguities or conflicts among the Tender Documents, or as a result of the Work Site visit or the Information Meeting, the Bidder must bring them to the attention of the Chinook Representative identified in Paragraph 14.01 not less than four business days prior to the Closing Date and Closing Time. A business day means a day, other than a Saturday or Sunday, on which Chinooks office is open for normal business in British Columbia.

11.02 Chinook will review the Bidder's question and where Chinook determines that the information was not clearly specified in the Tender Documents, Chinook will issue a clarifying addendum to all registered holders of Tender Documents, and the addendum will thereafter form part of the Tender Documents.

11.03 Chinook may, in its discretion, amend the Tender Documents by issuing a written addendum, which will be available at least four calendar days prior to the tender closing, to all registered holders of the Tender Documents, which addendum then forms part of the Tender Documents. A calendar day means any day of the week from January 1st to December 31st.

11.04 Where Tender Documents were obtained from Chinook Website, Chinook will post any addendum to the Tender Documents on the Chinook website at http://www.chinookcomfor.ca Bidders are solely responsible to continually monitor the Chinooks website on an ongoing basis to keep themselves informed of any addendum.

11.05 Where Tender Documents were provided directly by Chinook to bidders (not obtained from Chinook website), addendum to the Tender Documents will be sent by Chinook to all registered package holders.

12. Equivalents

12.01 The Tender is based on the materials and products specified in the Tender Documents.

12.02 Chinook will allow equivalents to the materials and products specified in the Tender Documents only if:

(a) the Bidder submits full descriptive data in writing of any suggested equivalent NOT LESS THAN FOUR BUSINESS DAYS PRIOR to the Closing Date and Closing Time; and

(b) Chinook approves the suggested equivalent in writing prior to the Closing Time.

13. Revisions to Tenders

13.01 Prior to the Closing Time, revisions to a Tender that has already been submitted may be made in writing and delivered by hand, mail or courier to the Closing Location or by facsimile or electronic transmission provided in Section 13.05 and 13.06.

13.02 Revisions should only state the dollar amount by which a numeric figure/unit rate is to be increased or decreased, or indicate specific directions as to the exclusion or inclusion of particular words.

13.03 If a revision is to a dollar amount and it does not state which unit rate is to be increased or decreased, Chinook will consider the Tender to be incomplete and Chinook will disqualify the Tender, except in situations where there is only one Tender in which case Chinook may disqualify the Tender.

13.04 Where a Bidder submits multiple revisions to the Tender, each successive revision will nullify and replace any previous revisions unless the Bidder numbers each revision sequentially and states on each new revision, that the new revision does not nullify previous revisions.

13.05 Chinooks facsimile transmission number is:____NA_____. The Bidder is solely responsible for the effective delivery of any facsimile transmission prior to the Closing Time.

13.06 Electronic transmission of a Tender revision may be made to:ken.nielsen@chinookcomfor.ca. The Bidder is solely responsible for the effective delivery of any electronic transmission prior to the Closing Time.

13.07 The calendar and clock showing on Chinooks Email or facsimile destination, whether accurate or not, shall govern the delivery of revisions. The revision is deemed delivered to and received by Chinook if the transmission is completed in whole on or before the Closing Date and Closing Time. Electronic eMail submissions are submitted at the Bidder's own risk. Chinook is not responsible for systems or other problems that may affect submission.

14. Verification of Tender Receipt

14.01 Any bidder who wishes to verify that their tender has been received may do so by telephoning the Chinook representative: (the 'Chinook Representative').

14.02 Bidders must state their company name before the information in Paragraph 14.01 can be released. Chinook may require the Bidder to FAX the request in writing on letterhead before releasing such information.

14.03 No other information concerning the receipt of tenders will be released under any circumstances prior to the Tender Opening.

15. Withdrawal of Tender

15.01 Any bidder wishing to withdraw their tender prior to the tender Closing Time may do so by submitting a withdrawal request letter to the same address to which the Tender was submitted. Upon receipt of the request, the tender will be returned to the Bidder unopened.

16. Opening and Evaluation of Tenders

16.01 Tenders will be opened **in public,** at the Closing Location, immediately after the Closing Date and Closing Time, and the tenders will be opened and read.

16.02 All tenders will be evaluated in private, including tenders that were opened and read in public.

16.03 The Contract will not be awarded at the Tender Opening.

16.04 If only one tender is received, Chinook reserves the right to open the tender in private and if the Total Bid Price or Total Estimated Bid Price exceeds the estimated budget for the Contract, Chinook may re-tender the Work seeking a better response, with or without any changes being made to the Tender Documents and/or direct award the contract.

16.05 If more than one tender is received from the same bidder, the last tender received, as determined by Chinook, will be the only tender considered.

16.06 The lowest or any other tender will not necessarily be accepted. Chinook reserves the right to:

(a) reject all tenders;

(b) reject a tender which in the sole opinion of Chinook is too low to provide the Bidder with adequate resources to perform the Work; and,

(c) refuse award of the contract to a bidder Chinook judges to be fully or over committed on other projects; and,

(d) accept bids for the whole of the Work or may delete any part at its discretion;

(e) limit the number of Chinook contracts held at one time by any bidder.

16.07 If a bid price is incomplete, contains an omission, does not fairly represent proper compensation for an item of work to be done, or fails to provide an accurate total price, Chinook may disqualify the Tender.

16.08 If the Tender indicates the requirement for a Total Bid Price or a Total Estimated Bid Price on a unit-priced based tender, this is for evaluation purposes only and the unit rates shall take precedence for the Contract. Chinook will rank submitted tenders from lowest priced to highest priced based on the Total Bid Price or the Total Estimated Bid Price stated on each tender. Chinook will:

(a) check each extended amount (**the 'Extended Amount'**) on the lowest priced Tender to ensure it is the correct product of the quantity and the price per unit (**the 'Price Per Unit'**); and,

(b) check the Total Bid Price or the Total Estimated Bid Price to ensure it is the correct sum of the Extended Amount.

Where the Extended Amount or the Total Bid Price or the Total Estimated Bid Price of the lowest priced Tender is incorrect, Chinook will:

(c) for each and every incorrect Extended Amount, recalculate the incorrect Extended Amount by using the Bidder's Price Per Unit entered on the Tender; and,

(d) will recalculate the Total Bid Price or the Total Estimated Bid Price on the Tender using the corrected Extended Amounts; and,

(e) where the Total Bid Price or the Total Estimated Bid Price is no longer the lowest ranked Tender Chinook will put the Tender to one side as a remaining tender; and,

(f) Chinook will then apply these conditions to the next lowest ranked Tender to the extent necessary until a Tender with the lowest price is finally determined.

17. Obligations of Successful Bidder

17.01 Upon receiving a Contract award letter from Chinook, the Successful Bidder must take the following steps within the time specified in the award letter:

(a) sign the Contract covering the Work and return the Contract to Chinook;
(b) provide its assigned Personal Optional Protection registration number or its WorkSafe BC registration number, which must cover all workers, shareholders, directors, partners, and other individuals employed or engaged in the performance of the Work, if it has not already done so in the Tender;
(c) provide proof of insurance coverage, if required under the Contract, by delivering a completed Province of British Columbia 'Certificate of Insurance' in the form supplied by Chinook; and
(d) provide a Contract Performance Security, if required under the Contract; and
(e) if required to be registered with the BC Registrar of Companies as an extra-provincial company, provide proof of registration; and

17.02 No work shall commence, regardless of the Contract Term date, until the Contract is signed by Chinook and the obligations under 17.01 are fulfilled.

17.03 If the Successful Bidder does not complete the steps, as required in Paragraph 17.01, within the time specified in the Contract award letter, Chinook may, by written notice cancel the Contract award letter and award the Contract to another bidder, and:

(a) if there is a Bid Security, make a demand on the Bid Security, which will be either,
  (i) the difference between the Successful Bidder's Total Bid Price or Total Estimated Bid Price and the total bid price or total estimated bid price of the next lowest qualified bidder, or
  (ii) the amount of the Bid Security,

  whichever is less; or

(b) if no Bid Security was required, Chinook may pursue any remedy available to it at law or in equity, including the payment of liquidated damages by the Bidder calculated as the difference between the Bidder's Total Bid Price and the total bid price of the next lowest qualified bidder; and

(c) Chinook may give written notice to the Successful Bidder that its eligibility to bid Chinook contracts is pending suspension. If the Successful Bidder fails to satisfactorily execute two additional Chinook contracts within the same calendar year, Chinook reserves the right to disqualify the Successful Bidder from bidding on future contracts for a period of two years from the date of the last contract award letter.

17.04 In the event that the Successful Bidder has already started the Work, and is in default under Paragraph 17.02, Chinook may terminate the Contract or cancel the Contract award letter, and the Successful Bidder must reimburse Chinook for all costs, expenses, damages and losses arising out of the Successful Bidder's default.

17.05 Upon receiving a Contract award letter from Chinook, the Successful Bidder must authorize Chinook to cash the Bid Security and hold it as a Contract Performance Security until satisfactory completion of the Contract. Where no Bid Security was required but a Contract Performance Security is, the Bidder shall submit one of the financial performance security instruments specified in Paragraph 17.06.

17.06 As an alternative to Paragraph 17.05, the Successful Bidder may request the return of the Bid Security after submitting one of the following financial performance security instruments in the amount specified in Paragraph 6.01:

(a) an irrevocable letter of credit issued by a financial institution, payable to the 'Chinook Community Forest', having a termination date at least 90 days after the Contract completion date. If a Letter of Credit is required for a contract with a term greater than one year, it must contain an 'Evergreen Clause', allowing for the automatic extension or renewal on an annual basis until the Contract is complete. The Letter of Credit must contain a provision to provide Chinook with at least 30 days written notice if it will be cancelled or not be extended;

(b) a treasury bill note issued by the Government of Canada or the government of any Province of Canada and covered by a duly executed 'Safekeeping Agreement', in the form set out in the Tender Documents;

(c) a marketable bond in fully registered form issued and guaranteed by the Government of Canada or the government of any Province of Canada with a maturity date of not longer than 3 years, together with a duly executed Safekeeping Agreement;

(d) a short-term deposit registered in the name of the 'Chinook Community Forest' issued by a financial institution and covered by a duly executed Safekeeping Agreement;

(e) cash or a money order, certified cheque, or bank/credit union draft, made payable to the 'Chinook Community Forest'.

17.07 Personal or company cheques, assignable bonds and notes, bearer bonds and notes or Canada Savings Bonds are not acceptable.

17.08 No interest is payable on cash forms of security.

17.09 The Successful Bidder will be required to continue to meet Chinooks requirements under Paragraph 4.02 throughout the term of the contract, to the satisfaction of Chinook.

18. Independent Bidding

18.01 Bidrigging is a criminal offense under the federal *Competition Act. Chinook* will report any suspicion of bidrigging immediately to the Director of Investigation and Research appointed under the *Competition Act*.

18.02 By submission of the Tender, the Bidder certifies that the unit prices and/or the Total Bid Price in the Tender were independently developed without consultation with any other bidder or potential bidder.

18.03 Bidrigging between bidders, if proven, will be sufficient cause for rejection of the tenders of all bidders involved in that bidrigging and may result in disqualification from bidding on all future Ministry contracts for up to two years.

19. Successful Bidder's Representative

19.01 The Contractor shall appoint a Contractor Representative fluent in English, who shall:

(a) have full authority to act on behalf of the Contractor in connection with the Work and the Contract; and;

(b) be available to the Chinook Representative, when requested, and be present at all times at any site where the Work is carried out.

20. Ownership

20.01 The Tender, and all documents submitted as part of the Tender, become the property of the Chinook, and are subject to the provisions of the *Freedom of Information and Protection of Privacy Act*.

20.02 Chinook will be the exclusive owner of all rights to any materials or property produced under the Contract and the Bidder and its agents must not patent, copyright or otherwise claim any rights of ownership to any materials or property produced under the Contract.

21. Limitation of Damages

21.01 The Bidder, by submitting a Tender, agrees that it will not claim damages in excess of the reasonable costs incurred by the Bidder in preparing its Tender for matters relating to the Contract award or in respect of the tendering process, and the Bidder, by submitting a Tender, waives any claim for loss of profits if no Contract award is made to the Bidder.