



Ministry of
Forests, Lands and
Natural Resource Operations

Consulting and General Services Contract

CONTRACT./FILE NO:
EN14TAH402

THIS AGREEMENT DATED FOR REFERENCE THE
21st DAY OF MAY, 2013

PROJECT DESCRIPTION: DANGER TREE ASSESSMENTS AND FALLING

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented
by the MINISTER OF FORESTS, LANDS AND NATURAL RESOURCE OPERATIONS

Babine Timber Sales Office, Babine Business Area
Box 999, Burns Lake, BC V0J 1E0
Phone Number: (250) 692-2200 FAX Number: (250) 692-7461
Ministry Representative: Grant Marleau
E-mail Address: Grant.Marleau@gov.bc.ca

(the "Province", "we", "us", or "our" as applicable)

AND:

Universal Silviculture Inc.
3300 28th Street, N.E. Salmon Arm, BC V1E 3K7
Phone Number: (250) 832-3045 FAX Number: (250) 833-0679
E-mail Address: donaldsinclair@hotmail.com
Contractor Representative: Donald Sinclair
WorkSafe BC and/or Personal Optional Protection Number: 394149

(the "Contractor", "you", or "your" as applicable)

The Province wishes to retain the Contractor to provide the Services specified in Schedule A and, in consideration for the remuneration set out in Schedule B, the Contractor has agreed to provide those Services, on the terms and conditions set out in this Agreement.

The Province and the Contractor agree as follows:

ARTICLE 1 DEFINITIONS

1.01 In this Agreement, unless the context otherwise requires:

- (a) "**Business Day**" means a day, other than a Saturday or Sunday, on which Provincial government offices are open for normal business in British Columbia;
- (b) "**Incorporated Material**" means any material in existence prior to the start of the Term or developed independently of this Agreement, and that is incorporated or embedded in the Produced Material by the Contractor or a Subcontractor;
- (c) "**Material**" means the Produced Material and the Received Material;
- (d) "**Produced Material**" means records, software and other material, whether complete or not, that, as a result of this Agreement, are produced by the Contractor or a Subcontractor and includes the Incorporated Material;
- (e) "**Received Material**" means records, software and other material, whether complete or not, that, as a result of this Agreement, are received by the Contractor or a Subcontractor from the Province or any other person;

- (f) "Record" is the definition of "record" in the *Interpretation Act* and as incorporated into this Agreement and "records" will bear a corresponding meaning;
- (g) "Services" means the services described in Schedule A;
- (h) "Subcontractor" means a person described in Section 16.05;
- (i) "Term" means the term of the Agreement described in Section 3.01 of this Agreement subject to that term ending earlier in accordance with this Agreement; and
- (j) "Unit of Measure" has the meaning described in Schedule B.

ARTICLE 2 CONTRACT DOCUMENTS AND MODIFICATIONS

2.01 The attached schedules are applicable to and form part of this Agreement:

Schedule	Title
Schedule A	Services
Schedule B	Contract Payment
Schedule D	Insurance Requirements
Schedule E	Safety Conditions
Schedule G	SAFE Company Requirements
Schedule H	Environmental Management System

2.02 No modification of this Agreement is effective unless it is in writing and signed by, or on behalf of, the parties.

ARTICLE 3 TERM OF CONTRACT

3.01 The Term of this Agreement is from and including June 1, 2013 to and including February 28, 2014 inclusive.

3.02 Regardless of the date of execution or delivery of this Agreement, the Contractor must provide the Services during the Term.

3.03 Time is of the essence in this Agreement and, without limitation, will remain of the essence after any modification or extension of this Agreement, whether or not expressly restated in the document effecting the modification or extension.

3.04 Option to Renew

The Agreement may be renewed for a further Term of 12 months, to a maximum of 3 terms, by written agreement of the parties, subject to satisfactory performance by the Contractor and the availability of funding by the Province. Should the Option to Renew be exercised, it is expected that the Contractor's bid rate or bid price in the preceding term will remain unchanged in the subsequent term, unless, in the ministry's sole opinion, a negotiated rate change is warranted.

3.05 Performance Security Requirement Upon Contract Renewal

The Contractor shall provide a financial contract performance security in the amount of 10% of the total contract value to secure fulfillment of the Contractor's obligations under this Agreement. The security will be released to the Contractor upon full, satisfactory completion of the Work or Services, as determined by the Province. Should the Province and the Contractor agree to renew this Agreement for a further term, the Province shall calculate the performance security requirement for the renewed term as follows.

- a) Where the Agreement specifies the performance security as a fixed dollar amount, the requirement shall remain unaltered unless the contract value for the extended term varies by more than 10% of that of the preceding term, in which case the performance security requirement shall be varied up or down by the same percentage.
- b) Where the Agreement specifies the performance security as a percentage of the total contract value, the requirement for the extended term shall be determined by multiplying the percentage times the contract value for the extended term, except where the new requirement is between 90 and 110 % of the former requirement, the performance security requirement shall remain unaltered.

The Contractor shall deliver the performance security for the initial contract term to the Province in an acceptable form on or before the date specified in the contract award letter. Should the option to renew be exercised, where the performance security requirement declines by more than 10% between two terms, the Province shall return the amount not required following satisfactory performance of the Contractor in the preceding term and in accordance with provisions specified elsewhere for the return of performance security. Where the performance security requirement increases by more than 10% between two terms, the Province

shall inform the Contractor in writing of the increased amount and the Contractor shall deliver this amount in an acceptable form at least ten working days prior to commencement of work in the forthcoming term.

ARTICLE 4 CONTRACTOR'S OBLIGATIONS

- 4.01 You must provide the Services described in Schedule A (the "Services") in accordance with this Agreement.
- 4.02 Unless the parties otherwise agree in writing, you must supply and pay for all labour, materials, equipment, tools, facilities, and approvals and licences necessary or advisable to perform your obligations under this Agreement, including the license under Section 8.04.
- 4.03 Unless otherwise specified in this Agreement, you must perform the Services to a standard of care, skill, and diligence maintained by persons providing, on a commercial basis, services similar to the Services.
- 4.04 You must provide, instruct, and supervise a sufficient number of qualified personnel to enable timely and proper performance and completion of the Services. All such personnel shall be competent, English literate, efficient and qualified by education, training and experience to carry out the tasks to which each is assigned.
- 4.05 We may from time to time give you reasonable instructions (in writing or otherwise) as to the performance of the Services. You must comply with those instructions but, unless otherwise specified in this Agreement, you may determine the manner in which the instructions are carried out.
- 4.06 If we provide an instruction under Section 4.05 other than in writing, you may request that the instruction be confirmed by us in writing, which request we must comply with as soon as it is reasonably practicable to do so.
- 4.07 Requesting written confirmation of an instruction under Section 4.06 does not relieve you from complying with the instruction at the time the instruction was given.
- 4.08 In the performance of your obligations under this Agreement, you must comply with all applicable laws.

ARTICLE 5 PAYMENT

- 5.01 If you comply with this Agreement, we must pay you at the rates and times described in Schedule B:
- (a) the fees described in that Schedule;
 - (b) the expenses, if any, in accordance with that Schedule if they are supported, where applicable, by proper receipts and, in our opinion, are necessarily incurred by you in providing the Services; and
 - (c) any applicable taxes payable by us under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (i) and (ii).
- We are not obliged to pay you more than the maximum amount or dollar limit specified in Schedule B on account of fees and expenses.
- 5.02 In order to obtain payment of any fees or expenses, if any, under this Agreement, you must submit written statements of account to us in a form satisfactory to us, but no sooner than the dates referred to in Schedule B.
- 5.03 Without limiting Section 11.01 we may withhold from any payment due to you an amount sufficient to indemnify, in whole or in part, the Province and its employees and agents against any liens or other third-party claims that have arisen or could arise in connection with the provision of the Services. An amount withheld under this section must be promptly paid by the Province to you upon the basis for withholding the amount having been fully resolved to the satisfaction of the Province.
- 5.04 Our obligation to pay money to you is subject to the Financial Administration Act, which makes that obligation subject to an appropriation being available in the fiscal year of the Province during which payment becomes due.
- 5.05 Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.
- 5.06 If you are not a resident in Canada, you acknowledge that we may be required by law to withhold income tax from the fees described in Schedule B and then to remit that tax to the Receiver General of Canada on your behalf.
- 5.07 Without limiting Section 16.11(a), you must not, in relation to performing your obligations under this Agreement, commit or purport to commit us to pay any money except as may be expressly provided for in this Agreement.
- 5.08 You must:
- (a) apply for, and use reasonable efforts to obtain, any available refund, credit, rebate or remission of federal, provincial or other tax or duty imposed on you as a result of this Agreement that the Province has paid or reimbursed to you or agreed to pay or reimburse to you under this Agreement; and

- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a) remit that amount to us.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

- 6.01 As at the date this Agreement is executed and delivered by, or on behalf of, the parties, you represent and warrant to us as follows:
- (a) except to the extent you have previously disclosed otherwise in writing to us:
 - (i) all information, statements, documents and reports furnished or submitted by you to us in connection with this Agreement (including as part of any competitive process resulting in this Agreement being entered into) are in all material respects true and correct,
 - (ii) you have sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements in place and available to enable you to fully perform the Services, and
 - (iii) you hold all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of your obligations under this Agreement; and
 - (b) if the Contractor is not an individual:
 - (i) you have the power and capacity to enter into this Agreement and to observe, perform and comply with the terms of this Agreement and all necessary corporate or other proceedings have been taken and done to authorize the execution and delivery of this Agreement by, or on behalf of, you, and
 - (ii) this Agreement has been legally and properly executed by, or on behalf of, you and is legally binding upon and enforceable against you in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or other laws affecting the rights of creditors generally and except that equitable remedies may be granted only in the discretion of a court of competent jurisdiction.

ARTICLE 7 PRIVACY, SECURITY AND CONFIDENTIALITY

- 7.01 You must comply with the Privacy Protection Schedule if attached to this Agreement.
- 7.02 You must make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration, or disposal and comply with the Security Schedule, if attached.
- 7.03 You must treat as confidential all information in the Material and all other information accessed or obtained by you or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without our prior written consent except:
- (a) as required to perform your obligations under this Agreement or to comply with applicable laws;
 - (b) if it is information that is generally known to the public other than as a result of a breach of this Agreement; or
 - (c) if it is information in any Incorporated Material.
- 7.04 Any public announcement relating to this Agreement will be arranged by us and, if such consultation is reasonably practicable, after consultation with you.
- 7.05 You must not, without our prior written approval, refer for promotional purposes to the Province being your customer or the Province having entered into this Agreement.

ARTICLE 8 MATERIAL AND INTELLECTUAL PROPERTY

- 8.01 If you receive a request for access to any of the Material from a person other than us, and this Agreement does not require or authorize you to provide that access, you must promptly advise the person to make the request to us.
- 8.02 We exclusively own all property rights in the Material that are not intellectual property rights. Any equipment property we may provide to you or a subcontractor is our exclusive property. You must deliver any Material or equipment property to us immediately following expiration of this Agreement, or sooner upon our request, in the same condition it was supplied to you, excepting always loss or damage attributable to reasonable wear or tear.
- 8.03 We exclusively own all intellectual property rights, including copyright:
- (a) In Received Material that you receive from us, and
 - (b) In Produced Material, other than any Incorporated Material.

Upon our request, you must deliver to us documents satisfactory to us that irrevocably waive in our favour any moral rights that you (or your employees) or a Subcontractor (or its employees) may have in the Produced Material and confirm the vesting in the Province of the copyright in the Produced Material, other than any Incorporated Material.

- 8.04 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, you grant us:
- (a) a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to use, reproduce, modify, and distribute that Incorporated Material; and
 - (b) the right to sublicense to third-parties the right to use, reproduce, modify and distribute that Incorporated Material.

ARTICLE 9 RECORDS AND REPORTS

- 9.01 You must, upon our request, fully inform us of all work done by you or a Subcontractor in connection with providing the Services.
- 9.02 If Schedule B provides for you to be paid fees at a Unit of Measure rate or for you to be paid or reimbursed for expenses, you must maintain time records and books of account, invoices, receipts and vouchers of expenses in support of those payments, in form and content satisfactory to us. Unless otherwise specified in this Agreement, the Contractor must retain such documents for a period of not less than seven years after this Agreement ends.

ARTICLE 10 AUDIT

- 10.01 In addition to any other rights of inspection the Province may have under statute or otherwise, we may at any reasonable time and on reasonable notice to you, enter on your premises to inspect and, at our discretion, copy any of the Material and you must permit, and provide reasonable assistance to, the exercise by us of our rights under this section.

ARTICLE 11 INDEMNITY AND INSURANCE

- 11.01 You must indemnify and save harmless the Province and its employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that the Province or any of its employees or agents may sustain, incur, suffer or be put to at any time either before or after this Agreement ends, including any claim of infringement of third-party intellectual property rights, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission by you or your agents, employees, officers, directors or Subcontractors in connection with this Agreement (each a "Loss"), excepting always liability arising out of the independent acts or omissions of the Province and its employees and agents.
- 11.02 You must comply with the insurance requirements in Schedule D, if attached, as those terms may be modified from time to time in accordance with our directions.
- 11.03 Without limiting the generality of Section 4.08, you must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of your obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.
- 11.04 At your own expense, and where required under *Workers Compensation Act* in British Columbia, you must obtain WorkSafe BC coverage for yourself, all workers and any shareholders, directors, partners or other individuals employed or engaged in the performance of the Services and you shall ensure all approved Subcontractors obtain WorkSafe BC Coverage.
- 11.05 If you are an individual or a partnership of individuals and do not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* in British Columbia, you must apply for and maintain Personal Optional Protection under the *Workers Compensation Act*.
- 11.06 You are responsible for all fines, levies, penalties and assessments made or imposed under the *Workers Compensation Act* and regulations relating in any way to the Services.
- 11.07 Upon our request you must provide us with evidence of your compliance with Sections 11.02, 11.04 and 11.05.

ARTICLE 12 FORCE MAJEURE

- 12.01 An "Event of Force Majeure" means a natural disaster, fire, flood, storm, epidemic or power failure, war (declared and undeclared), insurrection or act of terrorism or piracy, strike (including illegal work stoppage or slowdown) or lockout, or a freight embargo if such event prevents a party from performing its obligations in accordance with this Agreement and is beyond the reasonable control of that party.

- 12.02 An "Affected Party" means a party prevented from performing its obligations in accordance with this Agreement by an Event of Force Majeure.
- 12.03 An Affected Party is not liable to the other party for any failure or delay in the performance of the Affected Party's obligations under this Agreement resulting from an Event of Force Majeure and any time periods for the performance of such obligations are automatically extended for the duration of the Event of Force Majeure provided that the Affected Party complies with the requirements of Section 12.04.
- 12.04 An Affected Party must promptly notify the other party in writing upon the occurrence of the Event of Force Majeure and make all reasonable efforts to prevent, control or limit the effect of the Event of Force Majeure so as to resume compliance with the Affected Party's obligations under this Agreement as soon as possible.

ARTICLE 13 NON-COMPLIANCE WITH AGREEMENT CONDITIONS

- 13.01 An "Event of Default" means any of the following:
- (a) your failure to perform any of your obligations under this Agreement, or
 - (b) any representation or warranty made by you in this Agreement is untrue or incorrect, or
 - (c) an Insolvency Event, which means any of the following:
 - (i) an order is made, a resolution is passed or a petition is filed, for your liquidation or winding up,
 - (ii) you commit an act of bankruptcy, make an assignment for the benefit of your creditors or otherwise acknowledge your insolvency,
 - (iii) a bankruptcy petition is filed or presented against you or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by you,
 - (iv) a compromise or arrangement is proposed in respect of you under the *Companies' Creditors Arrangement Act* (Canada),
 - (v) a receiver or receiver-manager is appointed for any of your property, or
 - (vi) you cease, in our reasonable opinion, to carry on business as a going concern.
- 13.02 On the happening of an Event of Default, or at any time thereafter, we may, at our option, elect to do any one or more of the following:
- (a) by written notice to you, require that the Event of Default be remedied within a time period specified in the notice;
 - (b) pursue any remedy or take any other action available to us at law or in equity; or
 - (c) by written notice to you, terminate this Agreement with immediate effect or on a future date specified in the notice, subject to the expiration of any time period specified under Section 13.02(a).
- 13.03 No failure or delay on our part to exercise our rights in relation to an Event of Default will constitute a waiver by us of such rights.
- 13.04 If you become aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, you must promptly notify us of the particulars of the Event of Default or anticipated Event of Default. A notice under this section as to the occurrence of an Event of Default must also specify the steps you propose to take to address, or prevent recurrence of, the Event of Default. A notice under this section as to an anticipated Event of Default must specify the steps you propose to take to prevent the occurrence of the anticipated Event of Default.

ARTICLE 14 TERMINATION

- 14.01 In addition to our right to terminate this Agreement under Section 13.02(c) on the happening of an Event of Default, we may terminate this Agreement for any reason by giving at least 5 days' written notice of termination to you.
- 14.02 Unless Schedule B otherwise provides, if we terminate this Agreement under Section 14.01:
- (a) we must, within 30 days of such termination, pay you any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to our satisfaction before termination of this Agreement; and
 - (b) you must, within 30 days of such termination, repay to us any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that we have notified you in writing was not completed to our satisfaction before termination of this Agreement.

- 14.03 The payment by us of the amount described in Section 14.02(a) discharges us from all liability to make payments to the Contractor under this Agreement.

ARTICLE 15 DISPUTE RESOLUTION

- 15.01 In the event of any dispute between the parties arising out of or in connection with this Agreement, the following dispute resolution process will apply unless the parties otherwise agree in writing:
- (a) the parties must initially attempt to resolve the dispute through collaborative negotiation;
 - (b) if the dispute is not resolved through collaborative negotiation within 15 Business Days of the dispute arising, the parties must then attempt to resolve the dispute through mediation under the rules of the British Columbia Mediator Roster Society; and
 - (c) if the dispute is not resolved through mediation within 30 Business Days of the commencement of mediation, the dispute must be referred to and finally resolved by arbitration under the *Commercial Arbitration Act*.
- 15.02 Unless the parties otherwise agree in writing, an arbitration or mediation under Section 15.01 will be held in Victoria, British Columbia.
- 15.03 Unless the parties otherwise agree in writing or, in the case of an arbitration, the arbitrator otherwise orders, the parties must share equally the costs of a mediation or arbitration under Section 15.01 other than those costs relating to the production of expert evidence or representation by counsel.

ARTICLE 16 GENERAL

- 16.01 Any notice or document contemplated by this Agreement, to be effective, must be in writing and delivered as follows:
- (a) hand delivered to the party or the specified party representative, in which case it will be deemed to be received on the day of its delivery; or
 - (b) by prepaid post to the party's address specified on the first page of this Agreement, in which case if mailed during any period when normal postal services prevail, it will be deemed to be received on the fifth Business Day after its mailing; or
 - (c) delivered by courier service to the party's address specified on the first page of this Agreement, in which case it will be deemed received on the fifth Business Day after collection by the courier service; or
 - (d) by facsimile or electronic transmission to the specified facsimile number or Email address on the first page of this Agreement, in which case it will be deemed to be received on the day of transmittal unless transmitted after the normal business hours of the addressee or on a day that is not a Business Day, in which cases it will be deemed to be received on the next following Business Day.
- 16.02 Either party may from time to time give notice to the other party of a substitute address, Email address, or fax number, which from the date such notice is given will supersede for purposes of Section 16.01 any previous address, Email address, or fax number specified for the party giving the notice.
- 16.03 You must not assign your rights under this Agreement without our prior written consent.
- 16.04 You must not subcontract any of your obligations under this Agreement without our prior written consent, excepting persons listed in Schedule A.
- 16.05 No subcontract, whether consented to or not, relieves you from any obligations under this Agreement. You must comply with the Subcontracting Schedule if attached to this Agreement. You must ensure that any person retained by you or any person retained by a person retained by you fully complies with this Agreement in performing the subcontracted obligations.
- 16.06 We may, for reasonable cause, object to the use of a proposed Subcontractor and require you to retain another qualified subcontractor.
- 16.07 A waiver of any term or breach of this Agreement is effective only if it is in writing and signed by, or on behalf of, the waiving party and is not a waiver of any other term or breach.
- 16.08 This Agreement and any modification of it constitute the entire Agreement between the parties as to performance of the Services.
- 16.09 Sections 4.08, 5.01 to 5.04, 5.07, 5.08, 7.01 to 7.05, 8.01 to 8.04, 9.01, 9.02, 10.01, 11.01, 11.02, 11.07, 12.01 to 12.04, 13.02, 13.03, 14.02, 14.03, 15.01 to 15.03, 16.01, 16.02, 16.09, and 16.11, any accrued but unpaid payment obligations, and any other sections of this Agreement (including schedules) which, by their terms or

nature, are intended to survive the completion of the Services or termination of this Agreement, will continue in force indefinitely, even after this Agreement ends.

- 16.10 The schedules to this Agreement (including any appendices or other documents attached to, or incorporated by reference into, those schedules) are part of this Agreement.
- 16.11 In relation to the performance of your obligations under this Agreement, you are an independent contractor and not our:
- (a) employee or partner; or
 - (b) agent except as may be expressly provided for in this Agreement.
- You must not act or purport to act contrary to this section.
- 16.12 You must not do anything that would result in personnel hired or used by you or a Subcontractor in relation to providing the Services being considered our employees.
- 16.13 If one or more individuals are identified in the schedules as "Key Personnel", you must cause those individuals to perform the Services on your behalf and not remove or replace them, without our prior written approval. Any approved replacement is at your expense.
- 16.14 We must make available to you all information in our possession which we consider pertinent to the performance of the Services.
- 16.15 You must not provide any services to any person in circumstances which, in our reasonable opinion, could give rise to a conflict of interest between your duties to that person and your duties to us under this Agreement.
- 16.16 If there is a conflict among provisions of this Agreement, a provision in the body of this Agreement will prevail over any conflicting provision in, attached to, or incorporated by reference into a schedule, unless that conflicting provision expressly states otherwise and a provision in a schedule will prevail over any conflicting provision in a document attached to or incorporated by reference into a schedule, unless the schedule expressly states otherwise.
- 16.17 This Agreement does not operate as a permit, license, approval or other statutory authority which you may be required to obtain from the Province or any of its agencies in order to provide the Services. Nothing in this Agreement is to be construed as interfering with, or fettering in any manner, the exercise by the Province or its agencies of any statutory, prerogative, executive or legislative power or duty.
- 16.18 If any provision of this Agreement or the application of it to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired and will be valid and enforceable to the extent permitted by law.
- 16.19 Each party must perform the acts, execute and deliver the writings, and give the assurances as may be reasonably necessary to give full effect to this Agreement.
- 16.20 This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

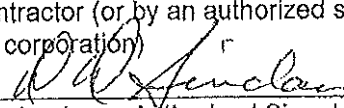
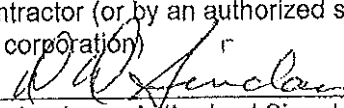
ARTICLE 17 INTERPRETATION

- 17.01 In this Agreement:
- (a) "we", "us", and "our" refer to the Province alone and never refer to the combination of the Contractor and the Province;
 - (b) the Contractor and the Province are referred to as "the parties" and each of them as a "party";
 - (c) "includes" and "including" are not intended to be limiting;
 - (d) unless the context otherwise requires, references to sections by number are to sections of this Agreement;
 - (e) "attached" means attached to this Agreement when used in relation to a schedule;
 - (f) unless otherwise specified, a reference to a statute by name means the statute of British Columbia by that name, as amended or replaced from time to time;
 - (g) the headings have been inserted for convenience of reference only and are not intended to describe, enlarge or restrict the scope or meaning of this Agreement or any provision of it;
 - (h) "person" includes an individual, partnership, corporation or legal entity of any nature; and
 - (i) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.

ARTICLE 18 EXECUTION AND DELIVERY

- 18.01 This Agreement may be entered into by a separate copy of this Agreement being executed by, or on behalf of, each party and that executed copy being delivered to the other party by a method provided for in Section 16.01 or any other method agreed to by the parties.

The Parties have executed this Agreement as follows:

SIGNED AND DELIVERED on behalf of the Province by an authorized representative of the Province	SIGNED AND DELIVERED by or on behalf of the Contractor (or by an authorized signatory of the Contractor if a corporation)
	
(Authorized Ministry Expense Authority)	(Contractor or Authorized Signatory)
(PRINTED NAME of Ministry Expense Authority)	<u>RONALD D. SENCARR</u> (PRINTED NAME of Contractor)
Dated this _____ day of _____, 20____	Dated this <u>4</u> day of <u>June</u> , 20 <u>13</u>



Ministry of
Forests, Lands and
Natural Resource Operations

Schedule A Services

File: EN14TAH402

Attachment to the Agreement with Universal Silviculture Inc. for Danger Tree Assessments and Falling.

1. THE SERVICES

The Contractor shall provide the following services:

1. Assess Forest Service Road (FSR) rights-of-way and other sites for danger trees. Assessments will be conducted to the standard and practices of the Wildlife Danger Tree Assessor's Forest Harvesting and Silviculture Module.
2. Assess and fall danger trees along and adjacent to FSR rights-of-way within Babine Business Area to provide safe access to work sites.
3. Assess and fall danger trees at other locations to provide safe work sites.
4. Where possible the contractor will retain high value wildlife trees that do not present a safety issue to other users.
5. All debris resulting from falling activities must be removed from road surfaces, ditches and cut and fill slopes.
6. All felled trees will be bucked to <1.0 m in height and be bucked into lengths that will lie flat (contour bucked). Portions of trees felled outside the road prism will be left on site as coarse woody debris.
7. Where required, the contractor must supply adequate traffic control methods to ensure the safety of all road users as per the *WorkSafe BC* Occupational Health and Safety Regulations Part 26.30 Traffic Control for Falling Operations. Some of the project roads may have a high volume of industrial and public (non radio controlled) traffic; the use of flag persons may be required to ensure adequate and safe traffic control.
8. Provide invoices and summary reports of works completed listing name of FSR, the location and number of danger trees assessed and felled within 10 days of completing works.
9. The rate supplied by the contractor for Danger Tree Assessing and Falling services will be an all found day rate based on a 10 hour day (one way travel) from the designated marshalling points. (Smithers, Houston or Burns Lake). All found day rate includes but is not limited to key personnel, equipment, signs, wages, transportation, fuel etc.

2. PERSONNEL and EQUIPMENT REQUIREMENTS

The Services shall be performed by the following "Key Personnel" having the following certifications and training using the following equipment:

1. The crew shall consist of a Qualified Faller Supervisor and Qualified Faller, one which must be a certified Wildlife/Danger Tree Assessor. Proof of certification and qualification (log book) must be on site at all times while work is being performed and presented to the Ministry representative if requested.

SCHEDULE A

SERVICES (Continued)

2. For the purposes of this contract a qualified falling supervisor is defined as: a certified faller having successfully completed the *BC Forest Safety Council (BCFSC)* Falling Supervisor Training course or is *BCFSC* Falling Supervisor certified.
3. Qualified faller from a *WorkSafe BC* recognized certifying party either: *BCFSC* Faller certification or *Enform* Oil and Gas Faller certification Level III or IV. The fallers must be in good standing with the council and certification must be kept current.

The following certification and training will be a requirement for one or all of the persons on the project site as indicated below:

- BCTS Level 3 EMS training is required for at least one person on site.
- S-100 Basic Fire suppression training required by all personnel on site.
- Current Level 1 First Aid with Transportation Endorsement required for all parties on site.
- Good communications skills both written and verbal.
- Good Map Reading skills.
- BC Wildlife/Danger Tree Assessor.

Note: 2 qualified fallers are required on site at all times. The qualified faller supervisor can be one of the certified fallers on site or a 3rd party can be designated as long as they are qualified as described above and there is evidence of adequate supervision by the designated falling supervisor through appropriate documentation and monitoring of faller practices and faller evaluations. The qualified faller can also be the Wildlife Danger Tree assessor(s).

4. The following equipment is required for the services:

- a.) A four wheel drive vehicle in good operating condition equipped with 2way radio with the road frequencies used in the area.
- b.) Power saws of adequate size and condition acceptable to the Ministry Representative and that are in compliance with the *Wildfire Act* and its regulations and *Worksafe BC Act* and regulations.
- c.) *Worksafe BC* approved safety equipment, signage and radios.
- d.) All Safety equipment to safely and efficiently assess, fall and buck hazardous trees or logs.
- e.) Fire Fighting and Suppression equipment as required by the *Wildfire Act*.
- f.) Fuel transportation containers that meet BCTS EMS requirements.

SCHEDULE A

SERVICES (Continued)

OPTION TO RENEW

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 the ministry's sole opinion, a negotiated rate change is warranted.



Schedule B Contract Payment

File: EN14TAH402

Attachment to the Agreement with Universal Silviculture Inc. for Danger Tree Assessment and Felling.

1. FEES

- 1.01 Your fees (**exclusive of Provincial Sales Tax (PST) and Goods and Services Tax (GST)**) will be based on a rate of \$1,097.00 per day (the "Unit of Measure") during the Term when you are providing the Services, up to a maximum of 30 Units of Measure.
- Where the Unit of Measure is a day, 10 hours is the equivalent of one day. If you provide the Services for less than the number of stated hours in a day, your fees for that Unit of Measure will be reduced proportionally.
- 1.02 The quantities stated under Clause 1.01 are estimations only. The final quantity measurements may vary from the estimations and contract payment will be based on the actual quantities and the price(s) per Unit of Measure stated above.
- 1.03 Notwithstanding Clause 1.02, the contract is not to exceed the maximum quantity stated in Clause 1.01 without the **prior written** approval of the Ministry Representative.

2. EXPENSES

- 2.01 We will not pay any expenses to you for the completion of the Services.

3. TOTAL PAYABLE

- 3.01 In no event will the Total Payable for fees and, where applicable, expenses (exclusive of any applicable taxes described in the Agreement) in accordance with this Schedule exceed in total *the Estimated Bid Price*.

4. HOLDBACK OF ACCOUNT

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

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

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

5. SUBMISSION OF STATEMENT OF ACCOUNT

- 5.01 In order to obtain payment for any fees and, where applicable, expenses under the Agreement, you must submit to us a written Statement of Account in a form satisfactory to us. Dates for submission of invoices are to be negotiated with the Contract Co-ordinator.

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

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

SCHEDULE B

CONTRACT PAYMENT

- (b) the calculation of all fees claimed under this Agreement for the Billing Period, with hours, dates, rates, and name(s) of persons providing the Services, a description of specific services/works completed during the Billing Period, including a declaration that the Services have been completed;
 - (c) and where expenses are to be paid under this Agreement, a chronological listing, in reasonable detail and with dates, of all expenses claimed by you under this Agreement for the Billing Period with receipts or copies of receipts, where applicable, attached;
 - (d) if you are claiming reimbursement of any GST or other applicable taxes paid or payable by you in relation to those expenses, a description of any credits, rebates, refunds, or remissions you are entitled to from the relevant taxation authorities in relation to those taxes;
 - (e) the calculation of any applicable PST and GST payable by us in relation to the Services provided under this Agreement and for the Billing Period as a separate line item;
 - (f) any other billing information reasonably requested by us.
- 5.03 Within thirty days of our receipt of your invoice, or the date we authorize payment, whichever is the latter, we must pay you fees and, where applicable, expenses for those Services we determined were satisfactorily received during the Billing Period.
- 5.04 Invoices are to be submitted to:
Babine Timber Sales Office, Box 999, Burns Lake BC V0J 1E0 by mail or
<http://www.for.gov.bc.ca/bcts/areas/TBA.htm> then click on "Submit Invoices" on left menu.

Please Note

***Please be advised that any discrepancies between your invoice total and the cost per project breakdown may delay payment of submitted invoices
Invoices that are not submitted with the correct required information will be rejected and the contractor will be notified to submit a corrected invoice.***

Contractor Must submit with invoice a spreadsheet showing all the works they have done in accordance with the tendered Schedule B, as the electron invoices for the contracts, only show the UBI & URI and summarizes the work, co-ordinators must have a form that shows all the works of the tendered contract, failure to submit will result in delay of payment.



**Ministry of
Forests, Lands and
Natural Resource Operations**

**Schedule D
Insurance**

File: EN14TAH402

Attachment to the Agreement with Universal Silviculture Inc. for Danger Tree Assessment and Felling

1. Without restricting the generality of the indemnification provisions contained in the Agreement, the Contractor shall, at its own expense, provide and maintain, during the term of this Agreement, the following insurance coverage as fully specified in Paragraph 11 and any additional insurance which it is required by law to carry or which it considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in its sole discretion.
2. All such insurance described herein must be primary and not require the sharing of any loss by any insurer of the Province.
3. Where a warranty period is required by the Province under this Agreement, the Contractor shall ensure that Products and Completed Operations coverage, as applicable, shall be in force for the duration of the warranty period.
4. Insurance shall be placed with Insurers licensed to underwrite such insurance in Canada and in forms and amounts acceptable to the Province. All such insurance shall be at no expense to the Province. If the Province requires additional Insurance Coverage to be obtained by the Contractor, the additional expense of such additional insurance shall be borne by the Province.
5. Notwithstanding Paragraph 6, the Contractor shall, prior to the commencement of services and before any payments are made under this Agreement, file with the Ministry Representative evidence of insurance coverage in the form of a completed Province of British Columbia Certificate of Insurance (Form FIN 173). When requested by the Province, the Contractor shall provide certified copies of required insurance policies.
6. ICBC's Confirmation of Automobile Insurance Coverage, Form APV 47 shall be used as satisfactory evidence of Automobile Liability Insurance.
7. The insurance policies, except for ICBC Automobile Liability Insurance, shall provide that the insurance shall not be cancelled or materially changed so as to affect the coverage provided under the Agreement, without the Insurer giving at least thirty (30) days prior written notice to the Province. Material change with respect to Professional Liability Insurance does not require the Insurer to give thirty (30) days prior written notice to the Province.
8. Failure to provide the required insurance documentation shall result in termination of this Agreement.
9. If the insurance policies expire prior to the end of the Agreement Term, the Contractor shall provide the ministry evidence of renewal or new policy meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance and ICBC's Form APV 47, if applicable, at least ten (10) days prior to the expiry date of the policies listed in this Schedule.
10. The Contractor shall ensure that all its subcontractors performing Services under this Agreement carry insurance in the form and limits specified in Paragraph 11.
11. The following forms of insurance and specified minimum limits are required:

Commercial General Liability

Commercial General Liability insurance in an amount not less than \$2 million inclusive per occurrence against bodily injury, personal injury, and property damage and including liability assumed under the Agreement.

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

- i) Products and Completed Operations Liability;
- ii) Owner's and Contractor's Protective Liability;
- iii) Contingent Employer's Liability;
- iv) Blanket Written Contractual Liability;
- v) Personal Injury Liability;
- vi) Non-Owned Automobile Liability;
- vii) Cross Liability;
- viii) Employees as Additional Insureds;
- ix) Broad Form Property Damage;

and where such further risk exists:

- x) Forest Fire Fighting Expense Coverage in the amount of:

☒ \$1 million

The Province is to be added as an "Additional Insured" under this policy, as follows: "Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Forests, Lands and Natural Resource Operations and any of its employees, servants or agents".

Automobile Liability

Where any licensed vehicles owned, leased, rented, or used in the performance of this Agreement, Automobile Liability insurance in an amount not less than \$2 million inclusive per occurrence must be provided for any such vehicle.



Attachment to the Agreement with Universal Silviculture Inc. for Danger Tree Assessment and Falling.

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

ARTICLE 1 OTHER SAFETY CONSIDERATIONS

Notice of Project

- 1.01 In accordance with the WC Act and its regulations, the Contractor must submit a notice of project, as applicable, to WorkSafe BC, unless the Contractor is notified in writing that the Province will submit the notice of project. Where the Contractor submits the notice of project, a copy must be provided to the Province. Where the Province submits the notice of project, the Contractor must provide, upon our request, all the information necessary to support the notice of project and the Province will provide the Contractor with a copy of the notice of project.
- 1.02 The Contractor will commence and conduct all operations consistently with the notice of project.

Reporting

- 1.03 The Contractor must immediately submit written notice to the Province on all matters reported to WorkSafe BC by the Contractor or the Contractor's Subcontractors. The written notice must include all information necessary to allow the Province to adequately collect and address safety or other related incidences, but will be anonymized so as not to include personal information about an identifiable individual including their name, address, telephone number, age, sex, race, religion, sexual orientation, disability, fingerprints, or blood type, health care, educational, financial or employment history and anyone else's opinion about the individual. This scope does not include business contact information (e.g., name, title, address, telephone or fax numbers or email address used for business contact purposes).
- 1.04 Where the Province brings safety concerns to the attention of the Contractor, it shall give full consideration to the issues raised and provide the Province with a considered response, including any information necessary to demonstrate that the Contractor is in compliance with WC Act and its regulations.
- 1.05 The Contractor or any Subcontractors must, upon the Province's request, provide evidence to the satisfaction of the Province that the Contractor or its Subcontractors have:
- (a) an employee monitoring system that will periodically ensure the well being of all the Contractor's or its Subcontractor's employees commensurate with the risks associated with the employee's activities; and
 - (b) an emergency response plan and employee understanding of said plan that will ensure adequate and timely response to any emergency that can be reasonably expected to occur in relation to the Works or Services being performed; and
 - (c) evidence of training and any required certifications required under WC Act or its regulations; and
 - (d) evidence of a maintenance program for all equipment and vehicles owned or operated by the Contractor or its Subcontractors commensurate with the risks associated with such equipment and vehicles.

ARTICLE 2 PRIME CONTRACTOR PROVISIONS

2.01 The Contractor acknowledges, agrees, and warrants that:

- (a) The Contractor will be considered to be the Prime Contractor and shall enter into a Prime Contractor Agreement with the Province and shall carry out the duties described therein, where any of the following conditions exist:
 - (i) the Province gave notice that the Successful Bidder would be the Prime Contractor;
 - (ii) the Province designates the Contractor to be the Prime Contractor at any time during the performance of the Work or Services;
 - (iii) the Contractor creates a multiple employer workplace through subcontracting any of the Work or Service at any time.

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

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

2.03 Where the Contractor is an Endorsed New Entrant by BC Forest Safety Council, the Province will not consider the Contractor to be qualified to function as a prime contractor and the Contractor will be unable to subcontract in any manner that will create a multiple employer workplace.

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

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

ARTICLE 3 HAND FALLING

3.01 Where hand falling activity will be taking place under the Agreement and without limiting any other provision of the Agreement or the Contract Documents, the Contractor shall comply with the following safety requirements.

3.02 Hand falling means the falling of trees by any means with at least one person at or near the base of the tree during falling and not inside a protected cab, where the trees are greater than 6 inches diameter at 12 inch stump height, or as may be determined by WorkSafe BC.

3.03 The Contractor must ensure that:

- (a) all hand falling is undertaken by fallers certified by BC Forest Safety Council (BCFSC) or ENFORM and are qualified for the slope and timber conditions being addressed;
- (b) a qualified Falling Supervisor satisfactory to the Province is designated for all forestry related hand falling activities and for all non-forestry related hand falling activities taking place on or after April 1, 2013.

3.04 A Falling Supervisor will be deemed qualified where:

- (a) It has satisfactorily completed the BCFSC Falling Supervisor Training course; or
- (b) it is BCFSC Falling Supervisor Certified; or

- (c) in the Province's sole opinion, evidence of qualifications/certifications and proficiency for the timber and slope for the Work Area and competency to discharge the expectations of a falling supervisor is satisfactory.
- 3.05 No hand falling operations will commence without the Province's prior satisfaction of acceptable proof of qualification/certification and of the Falling Supervisor's ability and competence.
- 3.06 The Contractor must, at least five Work Days prior to commencement of any hand falling operations, notify the Ministry Representative of the name of the designated Falling Supervisor or substitution thereof.
- 3.07 A Falling Plan must be developed with full engagement by the Falling Supervisor in collaboration with Hand Falling personnel and others responsible to discharge aspects of the falling plan.
- 3.08 The Contractor must ensure:
 - (a) no work will commence prior to all considerations of the Falling Plan being implemented as established by the designated Falling Supervisor;
 - (b) all hand falling operations performed occur and are supported in accordance with the Falling Plan; and
 - (c) upon request of the Ministry representative, provide any documents and evidence to verify adherence to the Falling Plan.
- 3.09 If the Contractor engages a subcontractor as its Falling Supervisor, the Contractor shall not be relieved from the subcontracted obligations or any obligations under this Agreement.



Schedule G SAFE Certification Requirements

File: EN14TAH402

Attachment to the Agreement with Universal Silviculture Inc. for Danger Tree Assessment and Felling.

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

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

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

10. The Contractor must make available upon request of the Ministry Representative the records as required by the EMS and Part A, Sections 5 and 9 and Part B, Section 7 and 8.
11. The Contractor may be audited by an Internal Auditor, as specified in the BCTS "BC Timber Sales, Environmental Management System Manual" available on the Ministry of Forests, Lands and Natural Resource Operations' BCTS website provided in Part A, Section 3 of this Schedule, and/or by a third party registration auditor for the purpose of auditing conformance with the requirements of the BCTS EMS, and is committed to:
 - a) providing time and resources for such audits and,
 - b) Improving practices in response to audit results indicating that practices require improvement.
12. The Contractor is required to conduct operations in compliance with all relevant Provincial and Federal environmental legislation and regulations.

PART B – Emergency Response Plan

1. The Contractor, including the Contractor's Agents, if providing an activity or service with associated risks related to hazardous material spills, fuel, oil and pesticides, forest fires, landslides or other major erosion events, must comply with the environmental "Emergency Response Plan", as amended from time to time and approved by the Director of Forestry. This publication is available on the Ministry of Forests, Lands and Natural Resource Operations' BCTS website provided in Part A, Section 3 of this Schedule.
2. The Contractor must, before commencing operations at the Place of Work, prepare an environmental emergency response plan (ERP) consistent with the approved BCTS environmental ERP. This publication is available on the Ministry of Forests, Lands and Natural Resource Operations' BCTS website provided in Part A, Section 3 of this Schedule. A copy of the plan is to be submitted to the Ministry Representative upon request.
3. The Contractor must ensure that the Contractor and the Contractor's Agents conduct operations at the Place of Work in accordance with the ERP.
4. The Contractor must make the ERP available at the Place of Work for viewing by the Contractor's Agents.
5. The Contractor must ensure that the Contractor and the Contractor's Agents conduct operations at the Place of Work in compliance with the Wildfire Act and the Wildfire Regulation.
6. The Contractor must provide and maintain spill kit(s) as required under the "Environmental Field Procedure - 06 Fuel Handling (EFP-06)" for every operation using herbicides or fuel at the Place of Work and must ensure that all of the Contractor's Agents have been trained in the use of the required spill kit.
7. The Contractor must test emergency preparedness in accordance with the ERP and maintain documentation of such tests, identifying the date of the test, start and end times, names of people involved, results, and any actions to be taken.
8. The Contractor must report and document any incident in accordance with environmental "Emergency Response Plan", identifying the time and date of the incident, location of the incident, description of the incident, impact(s), contributing factors, action taken and agencies the incident was reported to.