

# GENERAL SERVICE AGREEMENT



## *For Administrative Purposes Only*

*Ministry Contract No.:* JAGEMBC1415707006

*Requisition No.:* \_\_\_\_\_

*Solicitation No.(if applicable):* \_\_\_\_\_

*Commodity Code:* \_\_\_\_\_

### ***Contractor Information***

*Supplier Name:* JONES CONSTRUCTION LTD.

*Supplier No.:* 2108975

*Telephone No.:* (604) 795-6686

*E-mail Address:* michelle@dunhamforestry.com

*Website:* \_\_\_\_\_

### ***Financial Information***

*Client:* 010

*Responsibility Centre:* 15707

*Service Line:* 11731

*STOB:* 6001

*Project:* 1500000

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## TABLE OF CONTENTS

No.	Heading	Page
1.	<b>Definitions</b> .....	1
	1.1 General.....	1
	1.2 Meaning of "record" .....	1
2.	<b>Services</b> .....	1
	2.1 Provision of services.....	2
	2.2 Term .....	2
	2.3 Supply of various items .....	2
	2.4 Standard of care.....	2
	2.5 Standards in relation to persons performing Services.....	2
	2.6 Instructions by Province.....	2
	2.7 Confirmation of non-written instructions.....	2
	2.8 Effectiveness of non-written instructions.....	2
	2.9 Applicable laws.....	2
3.	<b>Payment</b> .....	2
	3.1 Fees and expenses.....	2
	3.2 Statements of accounts.....	3
	3.3 Withholding of amounts.....	3
	3.4 Appropriation .....	3
	3.5 Currency .....	3
	3.6 Non-resident income tax .....	3
	3.7 Prohibition against committing money .....	3
	3.8 Refunds of taxes.....	3
4.	<b>Representations and Warranties</b> .....	4
5.	<b>Privacy, Security and Confidentiality</b> .....	4
	5.1 Privacy .....	4
	5.2 Security .....	4
	5.3 Confidentiality .....	4
	5.4 Public announcements.....	5
	5.5 Restrictions on promotion.....	5
6.	<b>Material and Intellectual Property</b> .....	5
	6.1 Access to Material.....	5
	6.2 Ownership and delivery of Material.....	5
	6.3 Matters respecting intellectual property .....	5
	6.4 Rights relating to Incorporated Material.....	5
7.	<b>Records and Reports</b> .....	5
	7.1 Work reporting .....	5
	7.2 Time and expense records.....	6
8.	<b>Audit</b> .....	6

9.	<b>Indemnity and Insurance</b> .....	6
9.1	Indemnity .....	6
9.2	Insurance.....	6
9.3	Workers compensation .....	6
9.4	Personal optional protection .....	6
9.5	Evidence of coverage .....	6
10.	<b>Force Majeure</b> .....	7
10.1	Definitions relating to force majeure .....	7
10.2	Consequence of Event of Force Majeure .....	7
10.3	Duties of Affected Party .....	7
11.	<b>Default and Termination</b> .....	7
11.1	Definitions relating to default and termination .....	7
11.2	Province's options on default .....	8
11.3	Delay not a waiver.....	8
11.4	Province's right to terminate other than for default .....	8
11.5	Payment consequences of termination .....	8
11.6	Discharge of liability .....	8
11.7	Notice in relation to Events of Default .....	8
12.	<b>Dispute Resolution</b> .....	9
12.1	Dispute resolution process .....	9
12.2	Location of arbitration or mediation.....	9
12.3	Costs of mediation or arbitration .....	9
13.	<b>Miscellaneous</b> .....	9
13.1	Delivery of notices.....	9
13.2	Change of address or fax number .....	9
13.3	Assignment.....	9
13.4	Subcontracting .....	10
13.5	Waiver.....	10
13.6	Modifications .....	10
13.7	Entire agreement.....	10
13.8	Survival of certain provisions .....	10
13.9	Schedules .....	10
13.10	Independent contractor .....	10
13.11	Personnel not to be employees of Province .....	10
13.12	Key Personnel .....	11
13.13	Pertinent Information.....	11
13.14	Conflict of interest .....	11
13.15	Time.....	11
13.16	Conflicts among provisions .....	11
13.17	Agreement not permit nor fetter .....	11
13.18	Remainder not affected by invalidity .....	11
13.19	Further assurances.....	11
13.20	Additional terms.....	11
13.21	Governing law .....	12
14.	<b>Interpretation</b> .....	12
15.	<b>Execution and Delivery of Agreement</b> .....	12

**SCHEDULE A – SERVICES**

- Part 1 - Term
- Part 2 - Services
- Part 3 - Related Documentation
- Part 4 - Key Personnel

**SCHEDULE B – FEES AND EXPENSES**

- Part 1 - Maximum Amount Payable
- Part 2 - Fees
- Part 3 - Expenses
- Part 4 - Statements of Account
- Part 5 - Payments Due

**SCHEDULE C – APPROVED SUBCONTRACTOR(S)**

**SCHEDULE D – INSURANCE**

**SCHEDULE E – PRIVACY PROTECTION SCHEDULE**

**SCHEDULE F – ADDITIONAL TERMS**

**SCHEDULE G – SECURITY SCHEDULE**

THIS AGREEMENT is dated for reference the 23rd day of May, 2013.

BETWEEN:

JONES CONSTRUCTION LIMITED (the "Contractor") with the following specified address and fax number:

11131 Bell Road  
Chilliwack, British Columbia  
V2P 6H5  
Facsimile: (604) 795-6686

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, as represented by Minister of Justice (the "Province") with the following specified address and fax number:

Emergency Management BC  
Flood Protection Program  
Block A – Suite 200, 2261 Keating Cross Road  
Saanichton British Columbia  
V8W 9J1  
Facsimile: (250) 952-4871

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.

As a result, the Province and the Contractor agree as follows:

## 1 DEFINITIONS

### General

1.1 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) "Services" means the services described in Part 2 of Schedule A;
- (g) "Subcontractor" means a person described in paragraph (a) or (b) of section 13.4; and
- (h) "Term" means the term of the Agreement described in Part 1 of Schedule A subject to that term ending earlier in accordance with this Agreement.

### Meaning of "record"

1.2 The definition of "record" in the *Interpretation Act* is incorporated into this Agreement and "records" will bear a corresponding meaning.

## 2 SERVICES

#### Provision of services

- 2.1 The Contractor must provide the Services in accordance with this Agreement.

#### Term

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

#### Supply of various items

- 2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Agreement, including the license under section 6.4.

#### Standard of care

- 2.4 Unless otherwise specified in this Agreement, the Contractor 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.

#### Standards in relation to persons performing Services

- 2.5 The Contractor must ensure that all persons employed or retained to perform the Services are qualified and competent to perform them and are properly trained, instructed and supervised.

#### Instructions by Province

- 2.6 The Province may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Services. The Contractor must comply with those instructions but, unless otherwise specified in this Agreement, the Contractor may determine the manner in which the instructions are carried out.

#### Confirmation of non-written instructions

- 2.7 If the Province provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by the Province in writing, which request the Province must comply with as soon as it is reasonably practicable to do so.

#### Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

#### Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws.

### 3 PAYMENT

#### Fees and expenses

- 3.1 If the Contractor complies with this Agreement, then the Province must pay to the Contractor at the times and on the conditions set out in Schedule B:
- (a) the fees described in that Schedule;
  - (b) the expenses, if any, described in that Schedule if they are supported, where applicable, by proper receipts and, in the Province's opinion, are necessarily incurred by the Contractor in providing the Services; and
  - (c) any applicable taxes payable by the Province under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

The Province is not obliged to pay to the Contractor more than the "Maximum Amount" specified in Schedule B on account of fees and expenses.

#### Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Agreement, the Contractor must submit to the Province a written statement of account in a form satisfactory to the Province upon completion of the Services or at other times described in Schedule B.

#### Withholding of amounts

- 3.3 Without limiting section 9.1, the Province may withhold from any payment due to the Contractor 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 the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of the Province.

#### Appropriation

- 3.4 The Province's obligation to pay money to the Contractor 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.

#### Currency

- 3.5 Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.

#### Non-resident income tax

- 3.6 If the Contractor is not a resident in Canada, the Contractor acknowledges that the Province 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 the Contractor's behalf.

#### Prohibition against committing money

- 3.7 Without limiting section 13.10(a), the Contractor must not in relation to performing the Contractor's obligations under this Agreement commit or purport to commit the Province to pay any money except as may be expressly provided for in this Agreement.

## Refunds of taxes

### 3.8 The Contractor 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 the Contractor as a result of this Agreement that the Province has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement; and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the Province.

## 4 REPRESENTATIONS AND WARRANTIES

### 4.1 As at the date this Agreement is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to the Province as follows:

- (a) except to the extent the Contractor has previously disclosed otherwise in writing to the Province,
  - (i) all information, statements, documents and reports furnished or submitted by the Contractor to the Province 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) the Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements in place and available to enable the Contractor to fully perform the Services, and
  - (iii) the Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Agreement; and
- (b) if the Contractor is not an individual,
  - (i) the Contractor has 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, the Contractor, and
  - (ii) this Agreement has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor 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.

## 5 PRIVACY, SECURITY AND CONFIDENTIALITY

### Privacy

#### 5.1 The Contractor must comply with the Privacy Protection Schedule attached as Schedule E.

### Security

#### 5.2 The Contractor must:

- (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration or disposal; and
- (b) comply with the Security Schedule attached as Schedule G.

### Confidentiality



- 5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without the Province's prior written consent except:
- (a) as required to perform the Contractor's 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 result of a breach of this Agreement; or
  - (c) if it is information in any Incorporated Material.

#### Public announcements

- 5.4 Any public announcement relating to this Agreement will be arranged by the Province and, if such consultation is reasonably practicable, after consultation with the Contractor.

#### Restrictions on promotion

- 5.5 The Contractor must not, without the prior written approval of the Province, refer for promotional purposes to the Province being a customer of the Contractor or the Province having entered into this Agreement.

### 6 MATERIAL AND INTELLECTUAL PROPERTY

#### Access to Material

- 6.1 If the Contractor receives a request for access to any of the Material from a person other than the Province, and this Agreement does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to the Province.

#### Ownership and delivery of Material

- 6.2 The Province exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the Province immediately upon the Province's request.

#### Matters respecting intellectual property

- 6.3 The Province exclusively owns all intellectual property rights, including copyright, in:

- (a) Received Material that the Contractor receives from the Province; and
- (b) Produced Material, other than any Incorporated Material.

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

#### Rights in relation to Incorporated Material

- 6.4 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the Province:
- (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.

## 7 RECORDS AND REPORTS

### Work reporting

- 7.1 Upon the Province's request, the Contractor must fully inform the Province of all work done by the Contractor or a Subcontractor in connection with providing the Services.

### Time and expense records

- 7.2 If Schedule B provides for the Contractor to be paid fees at a daily or hourly rate or for the Contractor to be paid or reimbursed for expenses, the Contractor 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 the Province. 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.

## 8 AUDIT

- 8.1 In addition to any other rights of inspection the Province may have under statute or otherwise, the Province may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the Province's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by the Province of the Province's rights under this section.

## 9 INDEMNITY AND INSURANCE

### Indemnity

- 9.1 The Contractor must indemnify and save harmless the Province and the Province's employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that the Province or any of the Province's 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 the Contractor or by any of the Contractor's agents, employees, officers, directors or Subcontractors in connection with this Agreement, excepting always liability arising out of the independent acts or omissions of the Province and the Province's employees and agents.

### Insurance

- 9.2 The Contractor must comply with the Insurance Schedule attached as Schedule D.

### Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

### Personal optional protection

- 9.4 The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term at the Contractor's expense if:
- (a) the Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and

- (b) such personal optional protection insurance is available for the Contractor from WorkSafeBC or other sources.

#### Evidence of coverage

- 9.5 Within 10 Business Days of being requested to do so by the Province, the Contractor must provide the Province with evidence of the Contractor's compliance with sections 9.3 and 9.4.

## 10 FORCE MAJEURE

#### Definitions relating to force majeure

- 10.1 In this section and sections 10.2 and 10.3:

- (a) "Event of Force Majeure" means one of the following events:
  - (i) a natural disaster, fire, flood, storm, epidemic or power failure,
  - (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy,
  - (iii) a strike (including illegal work stoppage or slowdown) or lockout, or
  - (iv) a freight embargoif the event prevents a party from performing the party's obligations in accordance with this Agreement and is beyond the reasonable control of that party; and
- (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Agreement by an Event of Force Majeure.

#### Consequence of Event of Force Majeure

- 10.2 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 10.3.

#### Duties of Affected Party

- 10.3 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.

## 11 DEFAULT AND TERMINATION

#### Definitions relating to default and termination

- 11.1 In this section and sections 11.2 to 11.4:

- (a) "Event of Default" means any of the following:
  - (i) an Insolvency Event,
  - (ii) the Contractor fails to perform any of the Contractor's obligations under this Agreement, or
  - (iii) any representation or warranty made by the Contractor in this Agreement is untrue or incorrect; and
- (b) "Insolvency Event" means any of the following:
  - (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,

- (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency,
- (iii) a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor,
- (iv) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
- (v) a receiver or receiver-manager is appointed for any of the Contractor's property, or
- (vi) the Contractor ceases, in the Province's reasonable opinion, to carry on business as a going concern.

#### Province's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, the Province may, at its option, elect to do any one or more of the following:
- (a) by written notice to the Contractor, 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 it at law or in equity; or
  - (c) by written notice to the Contractor, 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 11.2(a).

#### Delay not a waiver

- 11.3 No failure or delay on the part of the Province to exercise its rights in relation to an Event of Default will constitute a waiver by the Province of such rights.

#### Province's right to terminate other than for default

- 11.4 In addition to the Province's right to terminate this Agreement under section 11.2(c) on the happening of an Event of Default, the Province may terminate this Agreement for any reason by giving at least 10 days' written notice of termination to the Contractor.

#### Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if the Province terminates this Agreement under section 11.4:
- (a) the Province must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to the Province's satisfaction before termination of this Agreement; and
  - (b) the Contractor must, within 30 days of such termination, repay to the Province any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that the Province has notified the Contractor in writing was not completed to the Province's satisfaction before termination of this Agreement.

#### Discharge of liability

- 11.6 The payment by the Province of the amount described in section 11.5(a) discharges the Province from all liability to make payments to the Contractor under this Agreement.

#### Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify the Province 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 the Contractor proposes 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 the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

## **12 DISPUTE RESOLUTION**

### Dispute resolution process

- 12.1 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 *Arbitration Act*.

### Location of arbitration or mediation

- 12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Victoria, British Columbia.

### Costs of mediation or arbitration

- 12.3 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 12.1 other than those costs relating to the production of expert evidence or representation by counsel.

## **13 MISCELLANEOUS**

### Delivery of notices

- 13.1 Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows:
- (a) by fax to the addressee's fax number specified 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;
  - (b) by hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or
  - (c) by prepaid post to the addressee'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.

#### Change of address or fax number

- 13.2 Either party may from time to time give notice to the other party of a substitute address or fax number, which from the date such notice is given will supersede for purposes of section 13.1 any previous address or fax number specified for the party giving the notice.

#### Assignment

- 13.3 The Contractor must not assign any of the Contractor's rights under this Agreement without the Province's prior written consent.

#### Subcontracting

- 13.4 The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the Province's prior written consent, excepting persons listed in the attached Schedule C. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Agreement. The Contractor must ensure that:
- (a) any person retained by the Contractor to perform obligations under this Agreement; and
  - (b) any person retained by a person described in paragraph (a) to perform those obligations fully complies with this Agreement in performing the subcontracted obligations.

#### Waiver

- 13.5 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.

#### Modifications

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

#### Entire agreement

- 13.7 This Agreement (including any modification of it) constitutes the entire agreement between the parties as to performance of the Services.

#### Survival of certain provisions

- 13.8 Sections 2.9, 3.1 to 3.4, 3.7, 3.8, 5.1 to 5.5, 6.1 to 6.4, 7.1, 7.2, 8.1, 9.1, 9.2, 9.5, 10.1 to 10.3, 11.2, 11.3, 11.5, 11.6, 12.1 to 12.3, 13.1, 13.2, 13.8, and 13.10, 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.

#### Schedules

- 13.9 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.

#### Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Agreement, the Contractor is an independent contractor and not:
- (a) an employee or partner of the Province; or

- (b) an agent of the Province except as may be expressly provided for in this Agreement.

The Contractor must not act or purport to act contrary to this section.

#### Personnel not to be employees of Province

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Services being considered employees of the Province.

#### Key Personnel

- 13.12 If one or more individuals are specified as "Key Personnel" of the Contractor in Part 4 of Schedule A, the Contractor must cause those individuals to perform the Services on the Contractor's behalf, unless the Province otherwise approves in writing, which approval must not be unreasonably withheld.

#### Pertinent information

- 13.13 The Province must make available to the Contractor all information in the Province's possession which the Province considers pertinent to the performance of the Services.

#### Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in the Province's reasonable opinion, could give rise to a conflict of interest between the Contractor's duties to that person and the Contractor's duties to the Province under this Agreement.

#### Time

- 13.15 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.

#### Conflicts among provisions

- 13.16 Conflicts among provisions of this Agreement will be resolved as follows:
- (a) 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
  - (b) 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.

#### Agreement not permit nor fetter

- 13.17 This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor 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.

#### Remainder not affected by invalidity

- 13.18 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.

#### Further assurances

- 13.19 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.

#### Additional terms

- 13.20 Any additional terms set out in the attached Schedule F apply to this Agreement.

#### Governing law

- 13.21 This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

### 14 INTERPRETATION

#### 14.1 In this Agreement:

- (a) "includes" and "including" are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement;
- (c) the Contractor and the Province are referred to as "the parties" and each of them as a "party";
- (d) "attached" means attached to this Agreement when used in relation to a schedule;
- (e) 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;
- (f) 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;
- (g) "person" includes an individual, partnership, corporation or legal entity of any nature; and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.

### 15 EXECUTION AND DELIVERY OF AGREEMENT

- 15.1 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 13.1 or any other method agreed to by the parties.



The parties have executed this Agreement as follows:

<p>SIGNED on the <u>3</u> day of <u>JUNE</u>, 201<u>3</u> by the Contractor (or, if not an individual, on its behalf by its authorized signatory or signatories):</p> <p><u>[Signature]</u> Signature(s)</p> <p><u>ROBRY BOWDAN</u> Print Name(s)</p> <p><u>Pres.</u> Print Title(s)</p>	<p>SIGNED on the <u>6<sup>th</sup></u> day of <u>June</u>, 201<u>3</u> on behalf of the Province by its duly authorized representative:</p> <p><u>[Signature]</u> Signature</p> <p><u>Rebecca Denlinger</u> Print Name</p> <p><u>ADM / Fire &amp; Emergency Management Commissioner</u> Print Title</p>
--	---

## Schedule A – Services

### PART 1. TERM:

1. Subject to section 2 of this Part 1, the third Term of this Agreement commences on April 1, 2013 and ends on March 31, 2014 (first Term from April 1, 2011 to March 31, 2012 and second Term from April 1, 2012 to March 31, 2013).
2. At the discretion of the Ministry, this contract can be renewed for up to a maximum of two additional one-year Terms.

### PART 2. SERVICES:

The Contractor shall operate and maintain the Fraser River Debris Trap and associated works for the collection of floating debris, and subsequent utilization and disposal during the term of this Agreement.

#### 1. General Operation and Maintenance:

##### The Contractor shall:

1. Supply all equipment, materials and labour required to carry out the Terms of this Agreement.
2. Carry out the following work in a good and workmanlike manner as prescribed by Emergency Management BC:

##### a) Launch the Fin Booms

Set up and position the fin booms and holding boom in place.

##### b) Operate the Fin Booms

- i) During the freshet period of the Fraser River, ensure that the fin booms are maintained in their proper operating position and protected at all times during the Term of the Agreement, provided that such operations may be suspended if the river level measurement at Hope reaches or exceeds 9.2 metres.
- ii) Provide a boat suitable for the operation and maintenance of the fin boom and a back-up boat which can be used in the event of mechanical difficulties with the main boat.
- iii) Provide fins and all other necessary materials and supplies to operate the booms.
- iv) Make minor repairs to fin boom logs, lashing, etc., as necessary.
- v) Check all lines, shackles and other rigging. Make repairs and report on the condition of all booms and rigging to Emergency Management BC.

vi) Maintain, so as to be clearly readable, all existing signs associated with the operation of the Debris Trap.

vii) Secure the fin booms to the shore, when water levels are at an appropriate height.

c) Recovery During Freshet

Provide and operate a grapple yarder and other necessary equipment throughout the collection period (the spring freshet) to remove the debris from the catchment basin.

d) Recovery – Utilization and Disposal After Freshet

i) Recover merchantable material which Emergency Management BC and the Contractor agree to have recovered. Pay to Emergency Management BC the following royalties for material utilized:

- Firewood and Cottonwood Blocks
  - 8% of gross sales value
- Logs
  - 10% of gross sales value
- Chips
  - 10% of gross sales for white wood
  - 5% of gross sales for cedar
- Lumber
  - 10% of gross sales value
  - 20% of gross sales value if that value is greater than \$250/Mfbm
- Hog
  - 0% of gross sales value

The contractor is responsible to maintain records of all material sold and to report all sales to the Emergency Management BC each quarter. The value of revenue generated by material sold will be deducted from the payment due after the end of the quarter in which the Contractor receives payment for material sold.

- ii) Pay any and all fees levied by the Ministry of Forests, Lands and Natural Resource Operations including stumpage and scaling fees for all material sold by the Contractor.
- iii) Remove the holding boom clear of debris to ensure that it is not damaged during any burning.
- iv) Remove debris from contact with riprap before burning.

- v) Pile debris and burn in accordance with any permit issued by the Provincial of British Columbia.
- vi) Provide fire protection as required by the Emergency Management BC and the Ministry of Forests, Lands and Natural Resource Operations.
- vii) Burn in accordance with the requirements of the Pollution Control Permit PA-6349, issued by the Ministry of Environment.
- viii) Ensure the gate on the road access into the Debris Trap is kept locked during non-operating hours.

## 2. Winter Maintenance of Fin Boom and Debris Trap Basin

### The Contractor shall:

1. Repair the Fin Boom to ensure the ongoing operation of the Debris Trap.
2. Carry out silt removal within the basin and erosion protection measures to ensure the ongoing operation of the Debris Trap.

Note: The winter maintenance of the Fin Boom and the Debris Trap Basin shall not exceed \$80,000 / annum, unless otherwise and specifically instructed by EMBC, and shall only be carried out pending approval from EMBC.

## 3. Reporting requirements

The Contractor will provide Emergency Management BC with monthly written updates, documenting onsite work, site visits by outside agencies and a record of any communication with First Nations. Updates shall be submitted by the last business day of each month.

Additionally, the Contractor shall provide Emergency Management BC with a statement showing volume and gross revenue of the sale of any recovered merchantable material, as per Part 2 "Services," 30 days after the end of each quarter.

## PART 3. RELATED DOCUMENTATION:

Not applicable

## PART 4. KEY PERSONNEL:

Not applicable



## Schedule B – Fees and Expenses

### 1. MAXIMUM AMOUNT PAYABLE:

**Maximum Amount:** Despite sections 2 and 3 of this Schedule, up to \$478,400.00 for performing the Services during the third Term is the maximum amount which the Province is obliged to pay to the Contractor for fees and expenses under this Agreement (exclusive of any applicable taxes described in section 3.1(c) of this Agreement).

### 2. FEES:

#### **2.1 General Operation and Maintenance:**

During the period of April 1, 2013 to December 31, 2013, to pay the Contractor up to the sum of up to \$398,400.00 plus applicable taxes, or up to \$375,769.00 plus applicable taxes, during the third Term for the Services provided under the Agreement (2013 prices increased by the annual Consumer Price Index for British Columbia as calculated by Statistics Canada for the previous calendar year: 1.1% for 2012). As long as Emergency Management BC is satisfied that the Contractor's financial and contractual obligations are being met on a current basis, these funds will be paid out as follows:

a)	\$49,883.00	April 25, 2013
b)	\$56,760.00	May 25, 2013
c)	\$49,883.00	June 25, 2013
d)	\$49,883.00	July 25, 2013
e)	\$49,883.00	August 25, 2013
f)	\$49,883.00	September 25, 2013
g)	\$49,883.00	October 25, 2013
h)	\$42,342.00 or \$19,711.00 **	November 25, 2013

\*\* \$19,711.50 if the Fraser River water level at Hope does not exceed 7.62 metres for a period of 48 hours during the 2013 freshet period.

During the period of January 1, 2013 to December 31, 2013, the prices paid will be based on the payments above, increased or decreased by the annual Consumer Price Index for British Columbia as calculated by StatsCan for the previous calendar year.

1. At its expense, the Contractor shall facilitate the acquisition and maintenance of all leases, permits and licences required for the site and operations excluding the following permits: (1) the Shxw'ow'hamel First Nation land lease agreement, (2) Titus Jack land lease agreement, (3) the Canadian Pacific Railway (CPR) railway crossing agreement, and (4) the Environmental Management Act permit to discharge emissions to the air from wood debris.
2. Carry out, at its expense, any major maintenance of the site and installations not covered under this Agreement.
3. Subject to prior approval of Emergency Management BC, permit the Contractor to sell or remove any material it recovers from the debris, subject to payment by the Contractor of all scaling, stumpage and other costs associated with the salvage of the material. EMBC retains the right to sell or otherwise dispose of any material not sold or retained by the Contractor during the term of this Agreement.

4. Any extra work related to this project and performed by the Contractor outside of this Agreement must be confirmed by the Emergency Management BC's representative.
5. For work performed by the Contractor, not covered by this Agreement, and requested by the EMBC, the following all found rental rates shall be applied:

Equipment Description	Hourly Rates (\$/hour)
Aluminum River Boat – diesel power, jet propulsion designed for fin boom work, capable of speeds to 20 knots	\$125.00
Caterpillar 966 Front End Loader complete with attachments; or equivalent	\$125.00
EX200 Hydraulic Excavator complete with attachments; or equivalent	\$135.00
UH-20 Hydraulic Excavator complete with attachments; or equivalent	\$165.00
Off-Highway Gravel Truck	\$95.00
Conventional Standard Highway Gravel Truck	\$84.00
One D-8 Caterpillar Tractor; or equivalent	\$155.00
One D-9 Caterpillar Tractor; or equivalent	\$225.00
General Labour	\$40.00
Fire pumps, power saws, generator, augers, hand tools	No charge

Rates shall not in any case exceed those published in the Blue Book published by the Government of British Columbia.

## 2.2 Winter Maintenance of Fin Boom and Debris Trap Basin

During the period of December 1, 2013 to March 31, 2014, to pay the Contractor up to the sum of \$80,000.00 plus applicable taxes, during the third Term for the Services provided under the Agreement related to winter maintenance of the fin boom and removal of sediment and debris trap basin maintenance. Prior to completing any maintenance work on the Debris Trap, the Contractor must provide a summary of the maintenance required and the cost estimate for conducting the maintenance to Emergency Management BC. The Province may decline the work and the work should not go ahead without written approval. If directed by the Province, the Contractor is responsible for conducting the maintenance in a timely manner.

### 3. EXPENSES:

#### Expenses:

None

### 4. STATEMENTS OF ACCOUNT:

**Statements of Account:** In order to obtain payment of any fees and expenses under this Agreement, the Contractor must deliver to the Province at the end of the Term or, if the Contractor completes the Services

before that time, on the completion of the Services, a written statement of account in a form satisfactory to the Province containing:

- (a) the Contractor's legal name and address;
- (b) the date of the statement;
- (c) the Contractor's calculation of all fees claimed under this Agreement, including a declaration that the Services for which the Contractor claims fees have been completed;
- (d) a chronological listing, in reasonable detail, of any expenses claimed by the Contractor with receipts attached, if applicable, and, if the Contractor is claiming reimbursement of any GST or other applicable taxes paid or payable by the Contractor in relation to those expenses, a description of any credits, rebates, refunds or remissions the Contractor is entitled to from the relevant taxation authorities in relation to those taxes;
- (e) the Contractor's calculation of all applicable taxes payable by the Province in relation to the Services;
- (f) a description of this Agreement to which the statement relates;
- (g) a statement number for identification; and
- (h) any other billing information reasonably requested by the Province.

#### **5. PAYMENTS DUE:**

**Payments Due:** Within 30 days of the Province's receipt of the Contractor's written statement of account delivered in accordance with this Schedule, the Province must pay the Contractor the fees and expenses (plus all applicable taxes) claimed in the statement if they are in accordance with this Schedule. Statements of account or contract invoices offering an early payment discount may be paid by the Province as required to obtain the discount.



**Schedule C – Approved Subcontractor(s)**

Not applicable

## Schedule D – Insurance

1. The Contractor must, without limiting the Contractor's obligations or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to the Province:
  - (a) Commercial General Liability in an amount not less than \$5,000,000.00 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must
    - (i) include the Province as an additional insured,
    - (ii) be endorsed to provide the Province with 30 days advance written notice of cancellation or material change,
    - (iii) include a cross liability clause,
    - (iv) an "attached machinery" endorsement,
    - (v) "blanket" contractual coverage (including non-owned automobiles),
    - (vi) broad form property damage,
    - (vii) broad form loss of use,
    - (viii) completed operations,
    - (ix) specially licensed and unlicensed vehicles, and
    - (x) forest fire fighting expense coverage (\$2,000,000).
  - (b) Watercraft Liability insurance on all watercraft operated or used in the performance of this Agreement by the Contractor (including rented watercraft), in an amount not less than the limits of liability imposed by the *Marine Liability Act* and in any event not less than \$2,000,000 inclusive per occurrence, and this insurance must include:
    - (i) the Province as an additional insured,
    - (ii) an endorsement to provide the Province with 30 days advance written notice of cancellation or material change,
    - (iii) a cross liability clause, and
    - (iv) if applicable, coverage for marine towing operations.
  - (c) Sudden and Accidental Pollution endorsement on the Commercial General Liability insurance policy or Watercraft Liability insurance policy as applicable with a limit of liability not less than \$1,000,000 or, if such endorsement is unavailable, a Sudden and Accidental Pollution insurance policy insuring against bodily injury, property damage and cleanup expenses arising from new pollution conditions arising from the Contractor's performance of this Agreement with a limit of liability not less than \$1,000,000 per occurrence, and this insurance must include the Province as an additional insured and be endorsed to provide the Province with 30 days advance written notice of cancellation or material change.
2. All insurance described in section 1 of this Schedule must:
  - (a) be primary; and
  - (b) not require the sharing of any loss by any insurer of the Province.
3. The Contractor must provide the Province with evidence of all required insurance as follows:
  - (a) within 10 Business Days of commencement of the Services, the Contractor must provide to the Province evidence of all required insurance in the form of a completed Province of British Columbia Certificate of Insurance;
  - (b) if any required insurance policy expires before the end of the Term, the Contractor must provide to the Province within 10 Business Days of the policy's expiration, evidence of a new or renewal policy

meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and

- (c) despite paragraph (a) or (b) above, if requested by the Province at any time, the Contractor must provide to the Province certified copies of the required insurance policies.
4. The Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor's sole discretion.

## Schedule E – Privacy Protection Schedule

Not applicable

**Schedule F – Additional Terms**

Not applicable

**Schedule G – Security Schedule**

Not applicable



## Modification Agreement #1

THIS MODIFICATION AGREEMENT dated for reference May 15, 2014.

**BETWEEN:**

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, represented by the Minister of Justice and Attorney General

Emergency Management BC  
Flood Protection Program  
Block A - Suite 200, 2261 Keating Cross Road  
Saanichton, BC V8M 2A5

(the "Province")

**AND:**

Jones Construction Limited  
11131 Bell Road  
Chilliwack, BC V2P 6H5

(the "Contractor")

**BACKGROUND**

- A. The parties entered into an agreement numbered JAGEMBC1415707006 dated for reference May 23, 2013, (the "Agreement").
- B. The parties have agreed to modify the Agreement effective April 1, 2014.

**AGREEMENT**

The parties agree as follows:

- (1) *Schedule A – Services, Part 1 Term* is amended as follows:

"1. Subject to section 2 of this Part 1, the fourth Term of this Agreement commences on April 1, 2014 and ends on March 31, 2015 (first Term from April 1, 2011 to March 31, 2012, second Term from April 1, 2012 to March 31, 2013, and third Term from April 1, 2013 to March 31, 2014)."

- (2) *Schedule A – Services, Part 1 Term* is amended by deleting "2" which read as follows:

"At the discretion of the Ministry, this contract can be renewed for a maximum of one additional one-year Term."

- (3) *Schedule A – Services, Part 2 Services*, is amended as follows:

"The Contractor shall operate and maintain the Fraser River Debris Trap and associated works for the collection of floating debris, and subsequent utilization and disposal during the term of this agreement, subject to site vehicle access being provided and marketability of the fibre in the basin."

**JAGEMBC1415707006**



## Modification Agreement #1

The Contractor shall access the Fraser River Debris Trap for the purpose of floating debris collection works by water only via boat on the Fraser River unless the Province approves, in writing, alternative access by way of road access from Highway 7 and rail access across the Canadian Pacific Railway, or across Shxw'owhamel First Nation lands based on the issuance of a permit under the *Indian Act*."

(4) *Schedule A – Services, Part 2 Services*, is amended as follows:

1. b) Operate the Fin Booms

"vi) Maintain, so as to be clearly readable, all existing signs associated with the operation of the Debris Trap. New signage is to be provided by the Province or, if agreed upon, by the Contractor. The Province shall provide all wording for any new signage. The Contractor shall be responsible for installation of all new signage at the Debris Trap in areas designated by the Province."

(5) *Schedule A – Services, Part 2 Services*, is amended as follows:

1. c) Recovery During Freshet

"If access across Shxw'owhamel First Nation lands is approved above, provide and operate a grapple yarder and other necessary equipment throughout the collection period (the spring freshet) to remove the debris from the catchment basin, provided the *Indian Act* permit has been obtained on or before July 1, 2014, or by such a time that the water levels in the debris basin are able to float the debris in order to facilitate the successful removal."

(6) *Schedule A – Services, Part 2 Services*, is amended as follows:

1. d) Recovery – Utilization and Disposal After Freshet

i) Recover merchantable material which Emergency Management BC and the Contractor agree to have recovered. Pay to Emergency Management BC the following royalties for material utilized:

- Firewood and Cottonwood Blocks
  - 8% of gross sales value
- Logs
  - 10% of gross sales value
- Chips
  - 10% of gross sales for white wood
  - 5% of gross sales for cedar
- Lumber
  - 10% of gross sales value
  - 20% of gross sales value if that value is greater than \$250/Mfbm
- Hog
  - 0% of gross sales value

The Contractor is responsible to maintain records of all material sold and to report all sales to the Emergency Management BC each quarter. The value of revenue generated by material sold will be paid by cheque from the Contractor to the Province for the quarter in which the Contractor receives payment for material sold."





## Modification Agreement #1

(7) *Schedule A – Services, Part 2 Services*, is amended as follows:

1. d) Recovery – Utilization and Disposal After Freshet

"viii) If alternative access is approved above, ensure the gate on the road access into the Debris Trap is kept locked during non-operating hours."

(8) *Schedule B – Fees and Expenses, Part 2 Fees*, is amended as follows:

**2.1 General Operation and Maintenance:**

"During the period of April 1, 2014 to December 31, 2014, to pay the Contractor up to the sum of \$398,400.00 plus applicable taxes, or up to \$375,769.00 plus applicable taxes, during the fourth Term for the Services provided under the Agreement (2014 prices were not increased by the annual Consumer Price Index for British Columbia as calculated by Statistics Canada for the previous calendar year as there was no change for 2013). As long as Emergency Management BC is satisfied that the Contractor's financial and contractual obligations are being met on a current basis, these funds will be paid out as follows:

a)	\$49,883.00	April 25, 2014
b)	\$56,760.00	May 25, 2014
c)	\$49,883.00	June 25, 2014
d)	\$49,883.00	July 25, 2014
e)	\$49,883.00	August 25, 2014
f)	\$49,883.00	September 25, 2014
g)	\$49,883.00	October 25, 2014
h)	\$42,342.00 or \$19,711.00**	November 25, 2014

\*\* \$19,711.50 if the Fraser River water level at Hope does not exceed 7.62 metres for a period of 48 hours during the 2014 freshet period.

During the period of January 1, 2014 to December 31, 2014, the prices will be based on the payments above, increased or decreased by the annual Consumer Price Index for British Columbia as calculated by StatsCan for the previous calendar year."

(9) *Schedule B – Fees and Expenses, Part 2 Fees*, is amended as follows:

**2.1 General Operation and Maintenance**

"1. At its expense, the Contractor shall facilitate the acquisition and maintenance of all leases, permits and licenses required for the site and operations excluding the following permits: (1) Shxw'owhamel First Nation land lease agreement, (2) Titus Jack land lease agreement, (3) the Canadian Pacific Railway (CPR) railway crossing agreement, and (4) the Environmental Management Act permit to discharge emissions to the air from wood debris. The Province has secured permits (3) and (4) and shall continue to attempt to obtain permits (1) and (2) mentioned above and will advise the Contractor when it has done so."

(10) *Schedule B – Fees and Expenses, Part 2 Fees*, is amended as follows:

**2.1 General Operation and Maintenance**

"2. If alternative access is approved under this Agreement, carry out, at the Contractors expense, any major maintenance of the site and installations not covered under this Agreement, exclusive of major infrastructure installations.

(11) *Schedule B – Fees and Expenses, Part 2 Fees*, is amended as follows:

**JAGEMBC1415707006**

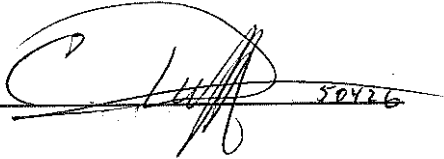
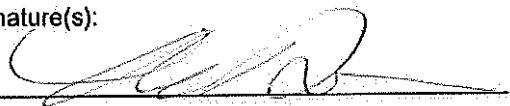


## Modification Agreement #1

### 2.2 Winter Maintenance of Fin Boom and Debris Trap Basin

"During the period of December 1, 2014 to March 31, 2015, to pay the Contractor up to the sum of \$80,000.00 plus applicable taxes, during the fourth Term for the Services provided under the Agreement related to winter maintenance of the fin boom and removal of sediment and debris trap basin maintenance. Prior to completing any maintenance work on the Debris Trap, the Contractor must provide a summary of the maintenance required and the cost estimate for conducting the maintenance to Emergency Management BC. The Province may decline the work and the work should not go ahead without written approval. If directed by the Province, the Contractor is responsible for conducting the maintenance in a timely manner."

(12) In all other respects, the Agreement is confirmed.

<b>SIGNED AND DELIVERED</b> on the <u>20</u> day of <u>MAY</u> , 20 <u>14</u> on behalf of the Province by its duly authorized representative  Signature:   Print name: <u>Christopher Duffy</u>	<b>SIGNED AND DELIVERED</b> on the <u>16</u> day of <u>MAY</u> , 20 <u>14</u> by or on behalf of the Contractor (or by its authorized signatory or signatories if the Contractor is a corporation)  Signature(s):   Print name(s): <u>Michelle T. Durham</u>
---	---



## Modification Agreement # 2

THIS MODIFICATION AGREEMENT dated for reference December 21, 2012.

### BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
as represented by Minister of Justice  
Emergency Management BC  
Flood Protection Program  
2nd Floor - 525 Fort Street  
Victoria, British Columbia V8W 1E8  
Fax: (250) 953-4081

(the "Province")

### AND:

Jones Construction Limited  
11131 Bell Road  
Chilliwack, British Columbia V2P 6H5  
Fax: (604) 795-6686

(the "Contractor")

### BACKGROUND

- A. The parties entered into an Agreement numbered SGEMBCHQ1215707003 dated for reference May 26, 2011, (the "Agreement").
- B. The parties have agreed to modify the Agreement effective December 21, 2012.

### AGREEMENT

The parties agree as follows:

- (1) The purpose of the Modification Agreement is to extend the Agreement to allow for winter boom maintenance to be completed in order to meet the ongoing requirements of the Fraser River Debris Trap.



## Modification Agreement # 2

- (2) Part 1, Term in Schedule A – Services is amended as follows:

**"PART 1. TERM:**

1. Subject to section 2 of this Part 1, the term of this Agreement commences on March 31, 2011 and ends on March 31, 2013.
- (3) Time will remain of the essence of the Agreement, as amended by this Modification Agreement.
- (4) This Modification Agreement may be entered into by each party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other party by fax.
- (5) In all other respects, the Agreement is confirmed.

**SIGNED AND DELIVERED**

on the 28 day of Dec, 2012 on behalf of the  
Province by its duly authorized representative

Signature:

Rebecca F. Denlinger

Print name:

Rebecca F. Denlinger

**SIGNED AND DELIVERED**

on the 21 day of Dec, 2012 by or on behalf of the  
Contractor (or by its authorized signatory or signatories if  
the Contractor is a corporation)

Signature(s):

[Signature]

Print name(s):

MICHELLE DUNHAM

# GENERAL SERVICE AGREEMENT



## ***For Administrative Purposes Only***

Ministry Contract No.: SGEMBCHQ1215707003

Requisition No.: \_\_\_\_\_

Solicitation No.(if applicable): \_\_\_\_\_

Commodity Code: \_\_\_\_\_

### **Contractor Information**

Supplier Name: Jones Construction

Supplier No.: 2108975

Telephone No.: (604) 795-6686

E-mail Address: \_\_\_\_\_

Website: \_\_\_\_\_

### **Financial Information**

Client: 010

Responsibility Centre: 15707

Service Line: 11731

STOB: 6001

Project: 1500000

**Template version:** October 21, 2010

## TABLE OF CONTENTS

No.	Heading	Page
1.	<b>Definitions</b> .....	1
	1.1 General .....	1
	1.2 Meaning of "record" .....	1
2.	<b>Services</b> .....	1
	2.1 Provision of services .....	2
	2.2 Term .....	2
	2.3 Supply of various items .....	2
	2.4 Standard of care .....	2
	2.5 Standards in relation to persons performing Services .....	2
	2.6 Instructions by Province .....	2
	2.7 Confirmation of non-written instructions .....	2
	2.8 Effectiveness of non-written instructions .....	2
	2.9 Applicable laws .....	2
3.	<b>Payment</b> .....	2
	3.1 Fees and expenses .....	2
	3.2 Statements of accounts .....	3
	3.3 Withholding of amounts .....	3
	3.4 Appropriation .....	3
	3.5 Currency .....	3
	3.6 Non-resident income tax .....	3
	3.7 Prohibition against committing money .....	3
	3.8 Refunds of taxes .....	3
4.	<b>Representations and Warranties</b> .....	4
5.	<b>Privacy, Security and Confidentiality</b> .....	4
	5.1 Privacy .....	4
	5.2 Security .....	4
	5.3 Confidentiality .....	4
	5.4 Public announcements .....	5
	5.5 Restrictions on promotion .....	5
6.	<b>Material and Intellectual Property</b> .....	5
	6.1 Access to Material .....	5
	6.2 Ownership and delivery of Material .....	5
	6.3 Matters respecting intellectual property .....	5
	6.4 Rights relating to Incorporated Material .....	5
7.	<b>Records and Reports</b> .....	5
	7.1 Work reporting .....	5
	7.2 Time and expense records .....	6
8.	<b>Audit</b> .....	6

9.	<b>Indemnity and Insurance</b> .....	6
	9.1 Indemnity .....	6
	9.2 Insurance .....	6
	9.3 Workers compensation .....	6
	9.4 Personal optional protection .....	6
	9.5 Evidence of coverage .....	6
10.	<b>Force Majeure</b> .....	7
	10.1 Definitions relating to force majeure .....	7
	10.2 Consequence of Event of Force Majeure .....	7
	10.3 Duties of Affected Party .....	7
11.	<b>Default and Termination</b> .....	7
	11.1 Definitions relating to default and termination .....	7
	11.2 Province's options on default .....	8
	11.3 Delay not a waiver .....	8
	11.4 Province's right to terminate other than for default .....	8
	11.5 Payment consequences of termination .....	8
	11.6 Discharge of liability .....	8
	11.7 Notice in relation to Events of Default .....	8
12.	<b>Dispute Resolution</b> .....	9
	12.1 Dispute resolution process .....	9
	12.2 Location of arbitration or mediation .....	9
	12.3 Costs of mediation or arbitration .....	9
13.	<b>Miscellaneous</b> .....	9
	13.1 Delivery of notices .....	9
	13.2 Change of address or fax number .....	9
	13.3 Assignment .....	9
	13.4 Subcontracting .....	10
	13.5 Waiver .....	10
	13.6 Modifications .....	10
	13.7 Entire agreement .....	10
	13.8 Survival of certain provisions .....	10
	13.9 Schedules .....	10
	13.10 Independent contractor .....	10
	13.11 Personnel not to be employees of Province .....	10
	13.12 Key Personnel .....	11
	13.13 Pertinent Information .....	11
	13.14 Conflict of interest .....	11
	13.15 Time .....	11
	13.16 Conflicts among provisions .....	11
	13.17 Agreement not permit nor fetter .....	11
	13.18 Remainder not affected by invalidity .....	11
	13.19 Further assurances .....	11
	13.20 Additional terms .....	11
	13.21 Governing law .....	12
14.	<b>Interpretation</b> .....	12
15.	<b>Execution and Delivery of Agreement</b> .....	12

**SCHEDULE A – SERVICES**

- Part 1 - Term**
- Part 2 - Services**
- Part 3 - Related Documentation**
- Part 4 - Key Personnel**

**SCHEDULE B – FEES AND EXPENSES**

- Part 1 - Maximum Amount Payable**
- Part 2 - Fees**
- Part 3 - Expenses**
- Part 4 - Statements of Account**
- Part 5 - Payments Due**

**SCHEDULE C – APPROVED SUBCONTRACTOR(S)**

**SCHEDULE D – INSURANCE**

**SCHEDULE E – PRIVACY PROTECTION SCHEDULE**

**SCHEDULE F – ADDITIONAL TERMS**

**SCHEDULE G – SECURITY SCHEDULE**



THIS AGREEMENT is dated for reference the [REDACTED] day of May, 2011.

BETWEEN:

Jones Construction Limited (the "Contractor") with the following specified address and fax number:  
11131 Bell Road  
Chilliwack, BC  
V2P 6A5  
(604) 795-6686

AND:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, (the "Province") as represented by the Ministry of Public Safety and Solicitor General, Emergency Management BC (EMBC)

PO Box 9223 Stn Prov Govt  
Victoria, BC  
V8W 9J1  
(250) 953-4801

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.

As a result, the Province and the Contractor agree as follows:

## **1 DEFINITIONS**

General

1.1 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) "Services" means the services described in Part 2 of Schedule A;
- (g) "Subcontractor" means a person described in paragraph (a) or (b) of section 13.4; and
- (h) "Term" means the term of the Agreement described in Part 1 of Schedule A subject to that term ending earlier in accordance with this Agreement.

Meaning of "record"

1.2 The definition of "record" in the *Interpretation Act* is incorporated into this Agreement and "records" will bear a corresponding meaning.

## **2 SERVICES**

#### Provision of services

- 2.1 The Contractor must provide the Services in accordance with this Agreement.

#### Term

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

#### Supply of various items

- 2.3 Unless the parties otherwise agree in writing, the Contractor must supply and pay for all labour, materials, equipment, tools, facilities, approvals and licenses necessary or advisable to perform the Contractor's obligations under this Agreement, including the license under section 6.4.

#### Standard of care

- 2.4 Unless otherwise specified in this Agreement, the Contractor 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.

#### Standards in relation to persons performing Services

- 2.5 The Contractor must ensure that all persons employed or retained to perform the Services are qualified and competent to perform them and are properly trained, instructed and supervised.

#### Instructions by Province

- 2.6 The Province may from time to time give the Contractor reasonable instructions (in writing or otherwise) as to the performance of the Services. The Contractor must comply with those instructions but, unless otherwise specified in this Agreement, the Contractor may determine the manner in which the instructions are carried out.

#### Confirmation of non-written instructions

- 2.7 If the Province provides an instruction under section 2.6 other than in writing, the Contractor may request that the instruction be confirmed by the Province in writing, which request the Province must comply with as soon as it is reasonably practicable to do so.

#### Effectiveness of non-written instructions

- 2.8 Requesting written confirmation of an instruction under section 2.7 does not relieve the Contractor from complying with the instruction at the time the instruction was given.

#### Failure to comply with instructions

- 2.8.1 If the Contractor fails to comply with instructions under section 2.6 the Province retains the right to take corrective action in relation to the instructions and to deduct the costs of such corrective action from the payments set out in Schedule "B".

#### Applicable laws

- 2.9 In the performance of the Contractor's obligations under this Agreement, the Contractor must comply with all applicable laws.

### **3 PAYMENT**

#### Fees and expenses

- 3.1 If the Contractor complies with this Agreement, then the Province must pay to the Contractor at the times and on the conditions set out in Schedule B:
- (a) the fees described in that Schedule;
  - (b) the expenses, if any, described in that Schedule if they are supported, where applicable, by proper receipts and, in the Province's opinion, are necessarily incurred by the Contractor in providing the Services; and
  - (c) any applicable taxes payable by the Province under law or agreement with the relevant taxation authorities on the fees and expenses described in paragraphs (a) and (b).

The Province is not obliged to pay to the Contractor more than the "Maximum Amount" specified in Schedule B on account of fees and expenses.

#### Statements of accounts

- 3.2 In order to obtain payment of any fees and expenses under this Agreement, the Contractor must submit to the Province a written statement of account in a form satisfactory to the Province upon completion of the Services or at other times described in Schedule B.

#### Withholding of amounts

- 3.3 Without limiting section 9.1, the Province may withhold from any payment due to the Contractor 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 the Contractor upon the basis for withholding the amount having been fully resolved to the satisfaction of the Province.

#### Appropriation

- 3.4 The Province's obligation to pay money to the Contractor 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.

#### Currency

- 3.5 Unless otherwise specified in this Agreement, all references to money are to Canadian dollars.

#### Non-resident income tax

- 3.6 If the Contractor is not a resident in Canada, the Contractor acknowledges that the Province 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 the Contractor's behalf.

## Prohibition against committing money

- 3.7 Without limiting section 13.10(a), the Contractor must not in relation to performing the Contractor's obligations under this Agreement commit or purport to commit the Province to pay any money except as may be expressly provided for in this Agreement.

## Refunds of taxes

- 3.8 The Contractor 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 the Contractor as a result of this Agreement that the Province has paid or reimbursed to the Contractor or agreed to pay or reimburse to the Contractor under this Agreement; and
- (b) immediately on receiving, or being credited with, any amount applied for under paragraph (a), remit that amount to the Province.

## 4 REPRESENTATIONS AND WARRANTIES

- 4.1 As at the date this Agreement is executed and delivered by, or on behalf of, the parties, the Contractor represents and warrants to the Province as follows:

- (a) except to the extent the Contractor has previously disclosed otherwise in writing to the Province,
  - (i) all information, statements, documents and reports furnished or submitted by the Contractor to the Province 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) the Contractor has sufficient trained staff, facilities, materials, appropriate equipment and approved subcontractual agreements in place and available to enable the Contractor to fully perform the Services, and
  - (iii) the Contractor holds all permits, licenses, approvals and statutory authorities issued by any government or government agency that are necessary for the performance of the Contractor's obligations under this Agreement; and
- (b) if the Contractor is not an individual,
  - (i) the Contractor has 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, the Contractor, and
  - (ii) this Agreement has been legally and properly executed by, or on behalf of, the Contractor and is legally binding upon and enforceable against the Contractor 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.

## 5 PRIVACY, SECURITY AND CONFIDENTIALITY

### Privacy

- 5.1 The Contractor must comply with the Privacy Protection Schedule attached as Schedule E.

### Security

- 5.2 The Contractor must:

- (a) make reasonable security arrangements to protect the Material from unauthorized access, collection, use, disclosure, alteration or disposal; and
- (b) comply with the Security Schedule attached as Schedule G.

#### Confidentiality

- 5.3 The Contractor must treat as confidential all information in the Material and all other information accessed or obtained by the Contractor or a Subcontractor (whether verbally, electronically or otherwise) as a result of this Agreement, and not permit its disclosure or use without the Province's prior written consent except:
- (a) as required to perform the Contractor's 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 result of a breach of this Agreement; or
  - (c) if it is information in any Incorporated Material.

#### Public announcements

- 5.4 Any public announcement relating to this Agreement will be arranged by the Province and, if such consultation is reasonably practicable, after consultation with the Contractor.

#### Restrictions on promotion

- 5.5 The Contractor must not, without the prior written approval of the Province, refer for promotional purposes to the Province being a customer of the Contractor or the Province having entered into this Agreement.

### **6 MATERIAL AND INTELLECTUAL PROPERTY**

#### Access to Material

- 6.1 If the Contractor receives a request for access to any of the Material from a person other than the Province, and this Agreement does not require or authorize the Contractor to provide that access, the Contractor must promptly advise the person to make the request to the Province.

#### Ownership and delivery of Material

- 6.2 The Province exclusively owns all property rights in the Material which are not intellectual property rights. The Contractor must deliver any Material to the Province immediately upon the Province's request.

#### Matters respecting intellectual property

- 6.3 The Province exclusively owns all intellectual property rights, including copyright, in:
- (a) Received Material that the Contractor receives from the Province; and
  - (b) Produced Material, other than any Incorporated Material.

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

#### Rights in relation to Incorporated Material

- 6.4 Upon any Incorporated Material being embedded or incorporated in the Produced Material and to the extent that it remains so embedded or incorporated, the Contractor grants to the Province:

- (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.

## **7 RECORDS AND REPORTS**

### Work reporting

- 7.1 Upon the Province's request, the Contractor must fully inform the Province of all work done by the Contractor or a Subcontractor in connection with providing the Services.

### Time and expense records

- 7.2 If Schedule B provides for the Contractor to be paid fees at a daily or hourly rate or for the Contractor to be paid or reimbursed for expenses, the Contractor 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 the Province. 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.

## **8 AUDIT**

- 8.1 In addition to any other rights of inspection the Province may have under statute or otherwise, the Province may at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the Province's discretion, copy any of the Material and the Contractor must permit, and provide reasonable assistance to, the exercise by the Province of the Province's rights under this section.

## **9 INDEMNITY AND INSURANCE**

### Indemnity

- 9.1 The Contractor must indemnify and save harmless the Province and the Province's employees and agents from any losses, claims, damages, actions, causes of action, costs and expenses that the Province or any of the Province's 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 the Contractor or by any of the Contractor's agents, employees, officers, directors or Subcontractors in connection with this Agreement, excepting always liability arising out of the independent acts or omissions of the Province and the Province's employees and agents.

### Insurance

- 9.2 The Contractor must comply with the Insurance Schedule attached as Schedule D.

### Workers compensation

- 9.3 Without limiting the generality of section 2.9, the Contractor must comply with, and must ensure that any Subcontractors comply with, all applicable occupational health and safety laws in relation to the performance of the Contractor's obligations under this Agreement, including the *Workers Compensation Act* in British Columbia or similar laws in other jurisdictions.

### Personal optional protection

- 9.4 The Contractor must apply for and maintain personal optional protection insurance (consisting of income replacement and medical care coverage) during the Term at the Contractor's expense if:

- (a) the Contractor is an individual or a partnership of individuals and does not have the benefit of mandatory workers compensation coverage under the *Workers Compensation Act* or similar laws in other jurisdictions; and
- (b) such personal optional protection insurance is available for the Contractor from WorkSafeBC or other sources.

#### Evidence of coverage

9.5 Within 10 Business Days of being requested to do so by the Province, the Contractor must provide the Province with evidence of the Contractor's compliance with sections 9.3 and 9.4.

## 10 FORCE MAJEURE

#### Definitions relating to force majeure

10.1 In this section and sections 10.2 and 10.3:

- (a) "Event of Force Majeure" means one of the following events:
  - (i) a natural disaster, fire, flood, storm, epidemic or power failure,
  - (ii) a war (declared and undeclared), insurrection or act of terrorism or piracy,
  - (iii) a strike (including illegal work stoppage or slowdown) or lockout, or
  - (iv) a freight embargoif the event prevents a party from performing the party's obligations in accordance with this Agreement and is beyond the reasonable control of that party; and
- (b) "Affected Party" means a party prevented from performing the party's obligations in accordance with this Agreement by an Event of Force Majeure.

#### Consequence of Event of Force Majeure

10.2 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 10.3.

#### Duties of Affected Party

10.3 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.

## 11 DEFAULT AND TERMINATION

#### Definitions relating to default and termination

11.1 In this section and sections 11.2 to 11.4:

- (a) "Event of Default" means any of the following:
  - (i) an Insolvency Event,
  - (ii) the Contractor fails to perform any of the Contractor's obligations under this Agreement, or
  - (iii) any representation or warranty made by the Contractor in this Agreement is untrue or incorrect; and

- (b) "Insolvency Event" means any of the following:
- (i) an order is made, a resolution is passed or a petition is filed, for the Contractor's liquidation or winding up,
  - (ii) the Contractor commits an act of bankruptcy, makes an assignment for the benefit of the Contractor's creditors or otherwise acknowledges the Contractor's insolvency,
  - (iii) a bankruptcy petition is filed or presented against the Contractor or a proposal under the *Bankruptcy and Insolvency Act* (Canada) is made by the Contractor,
  - (iv) a compromise or arrangement is proposed in respect of the Contractor under the *Companies' Creditors Arrangement Act* (Canada),
  - (v) a receiver or receiver-manager is appointed for any of the Contractor's property, or
  - (vi) the Contractor ceases, in the Province's reasonable opinion, to carry on business as a going concern.

#### Province's options on default

- 11.2 On the happening of an Event of Default, or at any time thereafter, the Province may, at its option, elect to do any one or more of the following:
- (a) by written notice to the Contractor, 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 it at law or in equity; or
  - (c) by written notice to the Contractor, 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 11.2(a).

#### Delay not a waiver

- 11.3 No failure or delay on the part of the Province to exercise its rights in relation to an Event of Default will constitute a waiver by the Province of such rights.

#### Province's right to terminate other than for default

- 11.4 In addition to the Province's right to terminate this Agreement under section 11.2(c) on the happening of an Event of Default, the Province may terminate this Agreement for any reason by giving at least 10 days' written notice of termination to the Contractor.

#### Payment consequences of termination

- 11.5 Unless Schedule B otherwise provides, if the Province terminates this Agreement under section 11.4:
- (a) the Province must, within 30 days of such termination, pay to the Contractor any unpaid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that was completed to the Province's satisfaction before termination of this Agreement; and
  - (b) the Contractor must, within 30 days of such termination, repay to the Province any paid portion of the fees and expenses described in Schedule B which corresponds with the portion of the Services that the Province has notified the Contractor in writing was not completed to the Province's satisfaction before termination of this Agreement.

#### Discharge of liability

- 11.6 The payment by the Province of the amount described in section 11.5(a) discharges the Province from all liability to make payments to the Contractor under this Agreement.



## Notice in relation to Events of Default

- 11.7 If the Contractor becomes aware that an Event of Default has occurred or anticipates that an Event of Default is likely to occur, the Contractor must promptly notify the Province 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 the Contractor proposes 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 the Contractor proposes to take to prevent the occurrence of the anticipated Event of Default.

## 12 DISPUTE RESOLUTION

### Dispute resolution process

- 12.1 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*.

### Location of arbitration or mediation

- 12.2 Unless the parties otherwise agree in writing, an arbitration or mediation under section 12.1 will be held in Victoria, British Columbia.

### Costs of mediation or arbitration

- 12.3 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 12.1 other than those costs relating to the production of expert evidence or representation by counsel.

## 13 MISCELLANEOUS

### Delivery of notices

- 13.1 Any notice contemplated by this Agreement, to be effective, must be in writing and delivered as follows:
- (a) by fax to the addressee's fax number specified 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;
  - (b) by hand to the addressee's address specified on the first page of this Agreement, in which case it will be deemed to be received on the day of its delivery; or
  - (c) by prepaid post to the addressee'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.

#### Change of address or fax number

- 13.2 Either party may from time to time give notice to the other party of a substitute address or fax number, which from the date such notice is given will supersede for purposes of section 13.1 any previous address or fax number specified for the party giving the notice.

#### Assignment

- 13.3 The Contractor must not assign any of the Contractor's rights under this Agreement without the Province's prior written consent.

#### Subcontracting

- 13.4 The Contractor must not subcontract any of the Contractor's obligations under this Agreement to any person without the Province's prior written consent, excepting persons listed in the attached Schedule C. No subcontract, whether consented to or not, relieves the Contractor from any obligations under this Agreement. The Contractor must ensure that:
- (a) any person retained by the Contractor to perform obligations under this Agreement; and
  - (b) any person retained by a person described in paragraph (a) to perform those obligations fully complies with this Agreement in performing the subcontracted obligations.

#### Waiver

- 13.5 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.

#### Modifications

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

#### Entire agreement

- 13.7 This Agreement (including any modification of it) constitutes the entire agreement between the parties as to performance of the Services.

#### Survival of certain provisions

- 13.8 Sections 2.9, 3.1 to 3.4, 3.7, 3.8, 5.1 to 5.5, 6.1 to 6.4, 7.1, 7.2, 8.1, 9.1, 9.2, 9.5, 10.1 to 10.3, 11.2, 11.3, 11.5, 11.6, 12.1 to 12.3, 13.1, 13.2, 13.8, and 13.10, 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.

#### Schedules

- 13.9 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.

#### Independent contractor

- 13.10 In relation to the performance of the Contractor's obligations under this Agreement, the Contractor is an independent contractor and not:
- (a) an employee or partner of the Province; or

- (b) an agent of the Province except as may be expressly provided for in this Agreement.

The Contractor must not act or purport to act contrary to this section.

#### Personnel not to be employees of Province

- 13.11 The Contractor must not do anything that would result in personnel hired or used by the Contractor or a Subcontractor in relation to providing the Services being considered employees of the Province.

#### Key Personnel

- 13.12 If one or more individuals are specified as “Key Personnel” of the Contractor in Part 4 of Schedule A, the Contractor must cause those individuals to perform the Services on the Contractor’s behalf, unless the Province otherwise approves in writing, which approval must not be unreasonably withheld.

#### Pertinent information

- 13.13 The Province must make available to the Contractor all information in the Province’s possession which the Province considers pertinent to the performance of the Services.

#### Conflict of interest

- 13.14 The Contractor must not provide any services to any person in circumstances which, in the Province’s reasonable opinion, could give rise to a conflict of interest between the Contractor’s duties to that person and the Contractor’s duties to the Province under this Agreement.

#### Time

- 13.15 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.

#### Conflicts among provisions

- 13.16 Conflicts among provisions of this Agreement will be resolved as follows:
- (a) 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
  - (b) 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.

#### Agreement not permit nor fetter

- 13.17 This Agreement does not operate as a permit, license, approval or other statutory authority which the Contractor 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.

#### Remainder not affected by invalidity

- 13.18 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.

#### Further assurances

- 13.19 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.

#### Additional terms

- 13.20 Any additional terms set out in the attached Schedule F apply to this Agreement.

#### Governing law

- 13.21 This Agreement is governed by, and is to be interpreted and construed in accordance with, the laws applicable in British Columbia.

### **14 INTERPRETATION**

#### 14.1 In this Agreement:

- (a) “includes” and “including” are not intended to be limiting;
- (b) unless the context otherwise requires, references to sections by number are to sections of this Agreement;
- (c) the Contractor and the Province are referred to as “the parties” and each of them as a “party”;
- (d) “attached” means attached to this Agreement when used in relation to a schedule;
- (e) 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;
- (f) 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;
- (g) “person” includes an individual, partnership, corporation or legal entity of any nature; and
- (h) unless the context otherwise requires, words expressed in the singular include the plural and *vice versa*.

### **15 EXECUTION AND DELIVERY OF AGREEMENT**

- 15.1 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 13.1 or any other method agreed to by the parties.

The parties have executed this Agreement as follows:

<p>SIGNED on the ____ day of _____, 20__ by the Contractor (or, if not an individual, on its behalf by its authorized signatory or signatories):</p>   <p>_____ Signature(s)</p> <p>_____ Print Name(s)</p> <p>_____ Print Title(s)</p>	<p>SIGNED on the ____ day of _____, 20__ on behalf of the Province by its duly authorized representative:</p>   <p>_____ Signature</p> <p>Rebecca Denlinger</p> <p>Fire and Emergency Management Commissioner</p>
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## Schedule A – Services

### PART 1. TERM:

1. Subject to section 2 of this Part 1, the term of this Agreement commences on March 31, 2011 and ends on December 21, 2012.
2. At the discretion of the Ministry, this contract can be renewed for up to a maximum of four additional years.

### PART 2. SERVICES:

The Contractor shall operate and maintain the Fraser River Debris Trap and associated works for the collection of floating debris, and subsequent utilization and disposal during the term of this Agreement.

#### A. The Contractor shall:

1. Supply all equipment, materials and labour required to carry out the terms of this Agreement.
2. Carry out the following work in a good and workmanlike manner as prescribed by the Public Safety Solicitor General (EMBC):
  - a) Launch the Fin Booms

Set up and position the fin booms and holding boom in place.
  - b) Operate the Fin Booms
    - i) During the freshet period of the Fraser River, ensure that the fin booms are maintained in their proper operating position and protected at all times during the term of the Agreement, provided that such operations may be suspended if the river level measurement at Hope reaches or exceeds 9.2 metres.
    - ii) Provide a boat suitable for the operation and maintenance of the fin boom and a back-up boat which can be used in the event of mechanical difficulties with the main boat.
    - iii) Provide fins and all other necessary materials and supplies to operate the booms.
    - iv) Make minor repairs to fin boom logs, lashing, etc., as necessary.
    - v) Check all lines, shackles and other rigging. Make repairs and report on the condition of all booms and rigging to EMBC.
    - vi) Maintain, so as to be clearly readable, all existing signs associated with the operation of the Trap.
    - vii) Secure the fin booms to the shore, when water levels are at an appropriate height.

c) Recovery During Freshet

Provide and operate a grapple yarder and other necessary equipment throughout the collection period (the spring freshet) to remove the debris from the catchment basin.

d) Recovery – Utilization and Disposal After Freshet

i) Recover merchantable material which EMBC and the Contractor agree to have recovered. Pay to EMBC the following royalties for material utilized:

- Firewood and Cottonwood Blocks
  - 8% of gross sales value
- Logs
  - 10% of gross sales value
- Chips
  - 10% of gross sales for white wood
  - 5% of gross sales for cedar
- Lumber
  - 10% of gross sales value
  - 20% of gross sales value if that value is greater than \$250/Mfbm
- Hog
  - 0% of gross sales value

The contractor is responsible to maintain records of all material sold and to report all sales to the EMBC each quarter. The value of revenue generated by material sold will be deducted from the payment due after the end of the quarter in which the Contractor receives payment for material sold.

- ii) Pay any and all fees levied by the Ministry of Forests, Lands and Natural Resource Operations including stumpage and scaling fees for all material sold by the Contractor.
- iii) Remove the holding boom clear of debris to ensure that it is not damaged during any burning.
- iv) Remove debris from contact with riprap before burning.
- v) Pile debris and burn in accordance with any permit issued by the Provincial Government.
- vi) Provide fire protection as required by the EMBC and the Ministry of Forests, Lands and Natural Resource Operations.
- vii) Burn in accordance with the requirements of the Pollution Control Permit PA-6349, issued by the Ministry of Environment.
- viii) Ensure the gate on the road access into the Trap is kept locked during non-operating hours.

## **Reporting requirements**

The Contractor will provide EMBC with monthly written updates, documenting onsite work, site visits by outside agencies and a record of any communication with First Nations. Updates shall be submitted by the third Thursday of each month.

Additionally, the Contractor shall provide EMBC with a statement showing volume and gross revenue of the sale of any recovered merchantable material, as per Part 2 "Services", 30 days after the end of each quarter.

### **PART 3. RELATED DOCUMENTATION:**

Not applicable

### **PART 4. KEY PERSONNEL:**

Not applicable



## Schedule B – Fees and Expenses

### **1. MAXIMUM AMOUNT PAYABLE:**

**Maximum Amount:** Despite sections 2 and 3 of this Schedule, \$470,000 is the maximum amount which the Province is obliged to pay to the Contractor for fees and expenses under this Agreement (exclusive of any applicable taxes described in section 3.1(c) of this Agreement).

### **2. FEES:**

1. During the period of March 31, 2011 to December 31, 2011, to pay the Contractor the sum of \$385,344 plus HST, or \$363,428 plus HST, for the services provided under the Agreement. As long as EMBC is satisfied that the Contractor's financial and contractual obligations are being met on a current basis, these funds will be paid out as follows:

a) \$48,184	April 25
b) \$54,827	May 25
c) \$48,184	June 25
d) \$48,184	July 25
e) \$48,184	August 25
f) \$48,184	September 25
g) \$48,184	October 25
h) \$41,413 or \$19,497 *	November 25

\* \$19,497 if the Fraser River water level at Hope does not exceed 7.62 metres for a period of 48 hours during the freshet period

During the period of January 1, 2012 to December 31, 2012, the prices paid will be based on the payments above, increased or decreased by the annual Consumer Price Index for British Columbia as calculated by StatsCan for the previous calendar year.

2. At its expense, facilitate the acquisition and maintenance of all leases, permits and licenses required for the site and operations. These will include access, occupation, navigation and pollution control permits or licenses as required.
3. Carry out, at its expense, any major maintenance of the site and installations not covered under this Agreement.
4. Subject to prior approval of EMBC, permit the Contractor to sell or remove any material it recovers from the debris, subject to payment by the Contractor of all scaling, stumpage and other costs associated with the salvage of the material. EMBC retains the right to sell or otherwise dispose of any material not sold or retained by the Contractor during the term of this Agreement.
5. Any extra work related to this project and performed by the Contractor outside of this Agreement must be confirmed by the EMBC's representative.
6. For work performed by the Contractor, not covered by this Agreement, and requested by the EMBC, the following all found rental rates shall be applied:

<b>Equipment Description</b>	<b>Hourly Rates (\$/h)</b>
Aluminum River Boat – diesel power, jet propulsion designed for fin boom work, capable of speeds to 20 knots.	\$125.00
One Caterpillar 966 Front End Loader c/w attachments, or similar.	\$125.00
One EX200 Hydraulic Excavator c/w attachments or similar.	\$135.00
One UH-20 Hydraulic Excavator c/w attachments, or similar.	\$165.00
Off-Highway Gravel Truck.	\$95.00
Conventional Standard Highway Gravel Truck.	\$84.00
One D-8 Caterpillar Tractor, or similar.	\$155.00
One D-9 Caterpillar Tractor or similar.	\$225.00
General Labour.	\$40.00
Fire pumps, power saws, generator, augers, hand tools.	N/C

Rates shall not in any case exceed those published in the Blue Book published by the Government of British Columbia.

### **3. EXPENSES:**

#### **Expenses:**

None

### **4. STATEMENTS OF ACCOUNT:**

**Statements of Account:** In order to obtain payment of any fees and expenses under this Agreement, the Contractor must deliver to the Province at the end of each billing period a written statement of account in a form satisfactory to the Province containing:

- (a) the Contractor's legal name and address;
- (b) the date of the statement;
- (c) the Contractor's calculation of all fees claimed under this Agreement, including a declaration that the Services for which the Contractor claims fees have been completed;
- (d) a chronological listing, in reasonable detail, of any expenses claimed by the Contractor with receipts attached, if applicable, and, if the Contractor is claiming reimbursement of any HST or other applicable taxes paid or payable by the Contractor in relation to those expenses, a description of any credits, rebates, refunds or remissions the Contractor is entitled to from the relevant taxation authorities in relation to those taxes;

- (e) the Contractor's calculation of all applicable taxes payable by the Province in relation to the Services;
- (f) a description of this Agreement to which the statement relates;
- (g) a statement number for identification; and
- (h) any other billing information reasonably requested by the Province.

## **5. PAYMENTS DUE:**

**Payments Due:** Within 30 days of the Province's receipt of the Contractor's written statement of account delivered in accordance with this Schedule, the Province must pay the Contractor the fees and expenses (plus all applicable taxes) claimed in the statement if they are in accordance with this Schedule. Statements of account or contract invoices offering an early payment discount may be paid by the Province as required to obtain the discount.

**Schedule C – Approved Subcontractor(s)**

Not applicable.

## Schedule D – Insurance

1. The Contractor must, without limiting the Contractor's obligations or liabilities and at the Contractor's own expense, purchase and maintain throughout the Term the following insurances with insurers licensed in Canada in forms and amounts acceptable to the Province:
  - (a) Commercial General Liability in an amount not less than \$5,000,000.00 inclusive per occurrence against bodily injury, personal injury and property damage and including liability assumed under this Agreement and this insurance must include:
    - (i) the Province as an additional insured,
    - (ii) an endorsement to provide the Province with 30 days advance written notice of cancellation or material change,
    - (iii) a cross liability clause
    - (iv) an "attached machinery" endorsement,
    - (v) "blanket" contractual coverage (including non-owned automobiles),
    - (vi) broad form property damage,
    - (vii) broad form loss of use,
    - (viii) completed operations,
    - (ix) specially licensed and unlicensed vehicles, and
    - (x) forest fire fighting expense coverage (\$2,000,000).
  - (b) Watercraft Liability insurance on all watercraft operated or used in the performance of this Agreement by the Contractor (including rented watercraft), in an amount not less than the limits of liability imposed by the *Marine Liability Act* and in any event not less than \$2,000,000 inclusive per occurrence, and this insurance must include:
    - (i) the Province as an additional insured,
    - (ii) an endorsement to provide the Province with 30 days advance written notice of cancellation or material change,
    - (iii) a cross liability clause, and
    - (iv) if applicable, coverage for marine towing operations.
  - (c) Sudden and Accidental Pollution endorsement on the Commercial General Liability insurance policy or Watercraft Liability insurance policy as applicable with a limit of liability not less than \$1,000,000 or, if such endorsement is unavailable, a Sudden and Accidental Pollution insurance policy insuring against bodily injury, property damage and cleanup expenses arising from new pollution conditions arising from the Contractor's performance of this Agreement with a limit of liability not less than \$1,000,000 per occurrence, and this insurance must include the Province as an additional insured and be endorsed to provide the Province with 30 days advance written notice of cancellation or material change.
2. All insurance described in section 1 of this Schedule must:
  - (a) be primary; and
  - (b) not require the sharing of any loss by any insurer of the Province.
3. The Contractor must provide the Province with evidence of all required insurance as follows:
  - (a) within 10 Business Days of commencement of the Services, the Contractor must provide to the Province evidence of all required insurance in the form of a completed Province of British Columbia Certificate of Insurance;
  - (b) if any required insurance policy expires before the end of the Term, the Contractor must provide to the Province within 10 Business Days of the policy's expiration, evidence of a new or renewal policy

meeting the requirements of the expired insurance in the form of a completed Province of British Columbia Certificate of Insurance; and

- (c) despite paragraph (a) or (b) above, if requested by the Province at any time, the Contractor must provide to the Province certified copies of the required insurance policies.
4. The Contractor must obtain, maintain and pay for any additional insurance which the Contractor is required by law to carry, or which the Contractor considers necessary to cover risks not otherwise covered by insurance specified in this Schedule in the Contractor's sole discretion.

## **Schedule E – Privacy Protection Schedule**

Not applicable.

## **Schedule F – Additional Terms**

Not applicable.



## **Schedule G – Security Schedule**

### **Definitions**

1. In this Schedule,
  - (a) “Equipment” means any equipment, including interconnected systems or subsystems of equipment, software and networks, used or to be used by the Contractor to provide the Services;
  - (b) “Facilities” means any facilities at which the Contractor provides or is to provide the Services;
  - (c) “Information” means information
    - (i) in the Material, or
    - (ii) accessed, produced or obtained by the Contractor (whether verbally, electronically or otherwise) as a result of the Agreement;
  - (d) “Record” means a “record” as defined in the *Interpretation Act*;
  - (e) “Sensitive Information” means
    - (i) Information that is “personal information” as defined in the *Freedom of Information and Protection of Privacy Act*, or
    - (ii) any other Information specified as “Sensitive Information” in Appendix G6, if attached; and
  - (f) “Services Worker” means an individual involved in providing the Services for or on behalf of the Contractor and, for greater certainty, may include
    - (i) the Contractor or a subcontractor if an individual, or
    - (ii) an employee or volunteer of the Contractor or of a subcontractor.

### **Schedule contains additional obligations**

2. The obligations of the Contractor in this Schedule are in addition to any other obligations in the Agreement or the schedules attached to it relating to security including, without limitation, the obligations of the Contractor in the Privacy Protection Schedule, if attached.

### **Services Worker confidentiality agreements**

3. The Contractor must not permit a Services Worker who is an employee or volunteer of the Contractor to have access to Sensitive Information unless the Services Worker has first entered into a confidentiality agreement with the Contractor to keep Sensitive Information confidential on substantially similar terms as those that apply to the Contractor under the Agreement.

### **Services Worker security screening**

4. The Contractor may only permit a Services Worker who is an employee or a volunteer of the Contractor to have access to Sensitive Information or otherwise be involved in providing the Services if, after having subjected the Services Worker to the personnel security screening requirements set out in Appendix G1 and any additional requirements the Contractor may consider appropriate, the Contractor is satisfied that

the Services Worker does not constitute an unreasonable security risk. The Contractor must create, obtain and retain Records documenting the Contractor's compliance with the security screening requirements set out in Appendix G1 in accordance with the provisions of that appendix.

### **Services Worker activity logging**

5. Subject to section 6, the Contractor must create and maintain detailed Records logging the activities of all Service Workers in relation to:
  - (a) their access to Sensitive Information; and
  - (b) other matters specified by the Province in writing for the purposes of this section.
6. The Records described in section 5 must be made and maintained in a manner, and contain information, specified in Appendix G2, if attached.

### **Facilities and Equipment protection and access control**

7. The Contractor must create, maintain and follow a documented process to:
  - (a) protect Facilities and Equipment of the Contractor required by the Contractor to provide the Services from loss, damage or any other occurrence that may result in any of those Facilities and Equipment being unavailable when required to provide the Services; and
  - (b) limit access to Facilities and Equipment of the Contractor
    - (i) being used by the Contractor to provide the Services, or
    - (ii) that may be used by someone to access Informationto those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons.
8. If the Province makes available to the Contractor any Facilities or Equipment of the Province for the use of the Contractor in providing the Services, the Contractor must comply with any policies and procedures provided to it by the Province on acceptable use, protection of, and access to, such Facilities or Equipment.

### **Sensitive Information access control**

9. The Contractor must:
  - (a) create, maintain and follow a documented process for limiting access to Sensitive Information to those persons who are authorized to have that access and for the purposes for which they are authorized, which process must include measures to verify the identity of those persons; and
  - (b) comply with the information access control requirements set out in Appendix G3, if attached.

### **Integrity of Information**

10. The Contractor must:
  - (a) create, maintain and follow a documented process for maintaining the integrity of Information while possessed or accessed by the Contractor; and
  - (b) comply with the information integrity requirements set out in Appendix G4, if attached.

11. For the purposes of section 10, maintaining the integrity of Information means that, except to the extent expressly authorized by the Agreement or approved in writing by the Province, the Information has:
- (a) remained as complete as when it was acquired or accessed by the Contractor; and
  - (b) not been altered in any material respect.

#### **Documentation of changes to processes**

12. The Contractor must create and maintain detailed Records logging any changes it makes to the processes described in sections 7, 9 and 10.

#### **Notice of security breaches**

13. If Contractor becomes aware that:
- (a) unauthorized access, collection, use, disclosure, alteration or disposal of Information or Records containing Information; or
  - (b) unauthorized access to Facilities or Equipment

has occurred or is likely to occur (whether or not related to a failure by the Contractor to comply with this Schedule or the Agreement), the Contractor must immediately notify the Province of the particulars of that occurrence or likely occurrence. If the Contractor provides a notification under this section other than in writing, that notification must be confirmed in writing to the Province as soon as it is reasonably practicable for the Contractor to do so.

#### **Review of security breaches**

14. If the Province decides to conduct a review of a matter described in section 13 (whether or not the matter came to the attention of the Province as a result of a notification under section 13), the Contractor must, on the request of the Province, participate in the review to the extent that it is reasonably practicable for the Contractor to do so.

#### **Retention of Records**

15. Unless the Agreement otherwise specifies, the Contractor must retain all Records in the Contractor's possession that contain Information until directed by the Province in writing to dispose of them or deliver them as specified in the direction.

#### **Storage of Records**

16. Until disposed of or delivered in accordance with section 15, the Contractor must store any Records in the Contractor's possession that contain Information in accordance with the provisions of Appendix G5, if attached.

#### **Audit**

17. In addition to any other rights of inspection the Province may have under the Agreement or under statute, the Province may, at any reasonable time and on reasonable notice to the Contractor, enter on the Contractor's premises to inspect and, at the Province's discretion, copy:
- (a) any Records in the possession of the Contractor containing Information; or

- (b) any of the Contractor's Information management policies or processes (including the processes described in sections 7, 9 and 10 and the logs described in sections 5 and 12) relevant to the Contractor's compliance with this Schedule

and the Contractor must permit, and provide reasonable assistance to the exercise by the Province of the Province's rights under this section.

### **Termination of Agreement**

- 18. In addition to any other rights of termination which the Province may have under the Agreement or otherwise at law, the Province may, subject to any provisions in the Agreement establishing mandatory cure periods for defaults by the Contractor, terminate the Agreement by giving written notice of such termination to the Contractor, upon any failure of the Contractor to comply with this Schedule in a material respect.

### **Interpretation**

- 19. In this Schedule, unless otherwise specified:
  - (a) references to sections are to sections of this Schedule; and
  - (b) references to appendices are to the appendices attached to this Schedule.
- 20. Any reference to the "Contractor" in this Schedule includes any subcontractor retained by the Contractor to perform obligations under the Agreement and the Contractor must ensure that any such subcontractors comply with this Schedule.
- 21. The appendices attached to this Schedule are part of this Schedule.
- 22. If there is a conflict between a provision in an appendix attached to this Schedule and any other provision of this Schedule, the provision in the appendix is inoperative to the extent of the conflict unless the appendix states that it operates despite a conflicting provision of this Schedule.
- 23. If there is a conflict between:
  - (a) a provision of the Agreement, this Schedule or an appendix attached to this Schedule; and
  - (b) a documented process required by this Schedule to be created or maintained by the Contractorthe provision of the Agreement, Schedule or appendix will prevail to the extent of the conflict.
- 24. The obligations of the Contractor in this Schedule will survive the termination of the Agreement.

## SCHEDULE G – Appendix G1 – Security screening requirements

The personnel security screening requirements set out in this Appendix G1 are for the purpose of assisting the Contractor determine whether or not a Services Worker constitutes an unreasonable security risk.

### Verification of name, date of birth and address

1. The Contractor must verify the name, date of birth and current address of a Services Worker by viewing at least one piece of “primary identification” of the Services Worker and at least one piece of “secondary identification” of the Services Worker,\* as described in the table following this section. The Contractor must obtain or create, as applicable, Records of all such verifications and retain a copy of those Records. For a Services Worker from another province or jurisdiction, reasonably equivalent identification documents are acceptable.

Primary Identification	Secondary Identification
<p><b>Issued by ICBC:</b></p> <ul style="list-style-type: none"><li>• B.C. driver's licence or learner's licence (must have photo)</li><li>• B.C. Identification (BCID) card</li></ul> <p><b>Issued by provincial or territorial government:</b></p> <ul style="list-style-type: none"><li>• Canadian birth certificate</li></ul> <p><b>Issued by Government of Canada:</b></p> <ul style="list-style-type: none"><li>• Canadian Citizenship Card</li><li>• Permanent Resident Card</li><li>• Canadian Record of Landing/Canadian Immigration Identification Record</li></ul>	<ul style="list-style-type: none"><li>• School ID card (student card)</li><li>• Bank card (only if holder's name is on card)</li><li>• Credit card (only if holder's name is on card)</li><li>• Passport</li><li>• Foreign birth certificate (a baptismal certificate is not acceptable)</li><li>• Canadian or U.S. driver's licence</li><li>• Naturalization certificate</li><li>• Canadian Forces identification</li><li>• Police identification</li><li>• Foreign Affairs Canada or consular identification</li><li>• Vehicle registration (only if owner's signature is shown)</li><li>• Picture employee ID card</li><li>• Firearms Acquisition Certificate</li><li>• Social Insurance Card (only if has signature strip)</li><li>• B.C. CareCard</li><li>• Native Status Card</li><li>• Parole Certificate ID</li><li>• Correctional Service Conditional Release Card</li></ul>

\*It is not necessary that each piece of identification viewed by the Contractor contains the name, date of birth and current address of the Services Worker. It is sufficient that, in combination, the identification viewed contains that information.

### Verification of education and professional qualifications

2. The Contractor must verify, by reasonable means, any relevant education and professional qualifications of a Services Worker, obtain or create, as applicable, Records of all such verifications, and retain a copy of those Records.

### Verification of employment history and reference checks

3. The Contractor must verify, by reasonable means, any relevant employment history of a Services Worker, which will generally consist of the Contractor requesting that a Services Worker provide employment references and the Contractor contacting those references. If a Services Worker has no relevant employment history, the Contractor must seek to verify the character or other relevant personal characteristics of the Services Worker by requesting the Services Worker to provide one or more personal references and contacting those references. The Contractor must obtain or create, as applicable, Records of all such verifications and retain a copy of those Records.

### Security interview

4. The Contractor must allow the Province to conduct a security-focused interview with a Services Worker if the Province identifies a reasonable security concern and notifies the Contractor it wishes to do so.



## Modification Agreement # 1

THIS MODIFICATION AGREEMENT dated for reference May 15, 2012.

### BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
as represented by Minister of Justice  
Emergency Management BC  
Flood Protection Program  
2nd Floor - 525 Fort Street  
Victoria, British Columbia V8W 1E8  
Fax: (250) 953-4081

(the "Province")

### AND:

Jones Construction Limited  
11131 Bell Road  
Chilliwack, British Columbia V2P 6H5  
Fax: (604) 795-6686

(the "Contractor")

### BACKGROUND

- A. The parties entered into an agreement numbered SGEMBCHQ1215707003 dated for reference May 26, 2011, (the "Agreement").
- B. The parties have agreed to modify the Agreement effective May 15, 2012.

### AGREEMENT

The parties agree as follows:

- (1) The purpose of the Modification Agreement to increase the amount of funds available in the Agreement for Services required between April 1, 2012 and December 21, 2012.
- (2) Part 1. Maximum Amount Payable in Schedule B – Fees and Expenses is amended as follows:

#### "1. MAXIMUM AMOUNT PAYABLE:

Maximum Amount: Despite sections 2 and 3 of this Schedule, up to \$940,000.00 (up to \$470,000.00 for performing the Services from March 31, 2011 to March 31, 2012 and up to



## Modification Agreement # 1

\$470,000.00 for performing the Services from April 1, 2012 to December 21, 2012) is the maximum amount which the Province is obliged to pay to the Contractor for fees and expenses under this Agreement (exclusive of any applicable taxes described in section 3.1(c) of this Agreement)."

- (3) Part 2. Fees in Schedule B – Fees and Expenses is amended as follows:

### "2. FEES:

1. During the period of March 31, 2011 to December 31, 2011, to pay the Contractor up to the sum of \$385,344.00 plus HST, or up to \$363,428.00 plus HST, for the Services provided under the Agreement. As long as EMBC is satisfied that the Contractor's financial and contractual obligations are being met on a current basis, these funds will be paid out as follows:

a)	\$48,184.00	April 25, 2011
b)	\$54,827.00	May 25, 2011
c)	\$48,184.00	June 25, 2011
d)	\$48,184.00	July 25, 2011
e)	\$48,184.00	August 25, 2011
f)	\$48,184.00	September 25, 2011
g)	\$48,184.00	October 25, 2011
h)	\$41,413.00 or \$19,497.00 *	November 25, 2011

\* \$19,497.00 if the Fraser River water level at Hope does not exceed 7.62 metres for a period of 48 hours during the 2011 freshet period.

During the period of April 1, 2012 to December 21, 2012, to pay the Contractor up to the sum of \$394,592.26 plus HST, or up to \$372,150.27 plus HST, for the Services provided under the Agreement (2012 prices increased by the annual Consumer Price Index for British Columbia as calculated by Statistics Canada for the previous calendar year: 2.4% for 2011). As long as EMBC is satisfied that the Contractor's financial and contractual obligations are being met on a current basis, these funds will be paid out as follows:

a)	\$49,340.42	April 25, 2012
b)	\$56,142.85	May 25, 2012
c)	\$49,340.42	June 25, 2012
d)	\$49,340.42	July 25, 2012
e)	\$49,340.42	August 25, 2012
f)	\$49,340.42	September 25, 2012
g)	\$49,340.42	October 25, 2012
h)	\$42,406.91 or \$19,964.93 **	November 25, 2012

\*\* \$19,964.93 if the Fraser River water level at Hope does not exceed 7.62 metres for a period of 48 hours during the 2012 freshet period.



## Modification Agreement # 1

2. At its expense, the Contractor shall facilitate the acquisition and maintenance of all leases, permits and licences required for the site and operations. These will include access, occupation, navigation and pollution control permits or licences as required.
3. At its expense, the Contractor shall carry out any major maintenance of the site and installations not covered under this Agreement.
4. Subject to prior approval by EMBC, the Contractor is permitted to sell or remove any material it recovers from the debris, subject to payment by the Contractor of all scaling, stumpage and other costs associated with the salvage of the material. EMBC retains the right to sell or otherwise dispose of any material not sold or retained by the Contractor during the term of this Agreement.
5. Any extra work related to this project and performed by the Contractor outside of this Agreement must be confirmed by EMBC.
6. For work performed by the Contractor, not covered by this Agreement, and requested by the EMBC, the following all found rates shall be applied:

<b>Equipment Description</b>	<b>Hourly Rates (\$/hour)</b>
Aluminum River Boat – diesel power, jet propulsion designed for fin boom work, capable of speeds to 20 knots	\$125.00
Caterpillar 966 Front End Loader complete with attachments; or equivalent	\$125.00
EX200 Hydraulic Excavator complete with attachments; or equivalent	\$135.00
UH-20 Hydraulic Excavator complete with attachments; or equivalent	\$165.00
Off-Highway Gravel Truck	\$95.00
Conventional Standard Highway Gravel Truck	\$84.00
One D-8 Caterpillar Tractor; or equivalent	\$155.00
One D-9 Caterpillar Tractor; or equivalent	\$225.00
General Labour	\$40.00
Fire pumps, power saws, generator, augers, hand tools	No charge

Rates shall not in any case exceed those published in the Government of British Columbia's recent Equipment Rental Rate Guide (The Blue Book)."





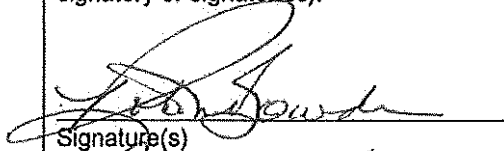
## Modification Agreement # 1

Rates shall not in any case exceed those published in the Government of British Columbia's recent Equipment Rental Rate Guide (The Blue Book)."

- (4) Time will remain of the essence of the Agreement, as amended by this Modification Agreement.
- (5) This Modification Agreement may be entered into by each party signing a separate copy of this Agreement (including a photocopy or faxed copy) and delivering it to the other party by fax.
- (6) In all other respects, the Agreement is confirmed.

<b>SIGNED AND DELIVERED</b> on the <u>7<sup>th</sup></u> day of <u>June</u> , 20 <u>12</u> on behalf of the Province by its duly authorized representative  Signature: <u>Rebecca F. Denlinger</u>  Print name: <u>Rebecca F. Denlinger</u>	<b>SIGNED AND DELIVERED</b> on the <u>31</u> day of <u>MAY</u> , 20 <u>12</u> by or on behalf of the Contractor (or by its authorized signatory or signatories if the Contractor is a corporation)  Signature(s): <u>[Signature]</u>  Print name(s): <u>MICHELLE DUNHAM</u>
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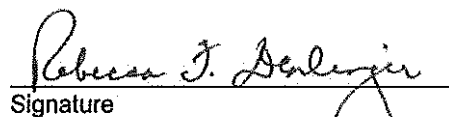
SIGNED on the 13 day of  
June, 2011 by the  
Contractor (or, if not an individual,  
on its behalf by its authorized  
signatory or signatories):

  
Signature(s)

ROBERT M. BOWDEN  
Print Name(s)

PRESIDENT  
Print Title(s)

SIGNED on the 22 day of  
June, 2011 on behalf of the  
Province  
by its duly authorized representative:

  
Signature

Rebecca Denlinger

Fire and Emergency Management  
Commissioner