

AMENDMENT # 1 to
2013 INTERAGENCY FIREFIGHTING CREW AGREEMENT

1. This is Amendment No. 1 to the 2013 Interagency Firefighting Crew Agreement (as amended from time to time the “**Agreement**”) between the State of Oregon acting by and through its Oregon Department of Forestry hereafter called **Government**, and (**Please Print Company Name**) _____,

hereafter called **Contractor**. By signing this Amendment, **Contractor** agrees to be bound by the terms and conditions of this amendment for all crews awarded to **Contractor**.

2. The **Agreement** is hereby amended as follows:

Section 10.2 under APPLICABLE LAW AND POLICIES is deleted and is replaced in its entirety to read as follows:

10.2 US DEPARTMENT OF LABOR WAGE DETERMINATION AND STATE MINIMUM WAGE. **Contractor** must compensate all **Crew Members** in accordance with (a) the applicable hourly wage rate provisions of (i) the Wage Determination issued pursuant to the federal Service Contract Act, or (ii) state minimum hourly wage rates, whichever is higher, and (b) the applicable Fringe Benefits set forth in the Wage Determination. Wage Determination can be found at <http://wdol.gov/wdol/scafiles/non-std/95-0221.sca>. It is the Contractor’s responsibility to ensure that it is using the most **current** rate provisions for compensation.

Section B 3.3.9 is deleted and is replaced in its entirety to read as follows:

B 3.3.9 Within five (5) calendar **Days** following administration of each pack test, **Contractor** must provide the **Administering Agency PCSU** with a roster including the names and **Government** assigned unique identifier number or first three/last four digits of the individual’s Social Security Number, **Contractor** affiliation of each person who took the test, and whether this person passed or failed the test. This roster must be signed and dated by the test administrator.

Section B 4.1 is deleted and is replaced in its entirety to read as follows:

B 4.1 **Contractors** are required to maintain a valid email address for the duration of this **Agreement**. **Contractor’s** electronic **Company Manifest** (form available for download at <http://www.oregon.gov/odf/pages/fire/ops/iaca.aspx>) must be emailed no later than June 1 of each calendar year to PCSU@odf.state.or.us. Faxed or hard copy **Company Manifests** will not be accepted. If a **Contractor** does not receive an email confirmation of an electronic submission, please contact the **Administering Agency PCSU**.

Sections D 8.2 through D 8.4 are deleted and replaced in their entirety to read as follows:

D 8.2 Prior to **Contractor’s** departure from an **Incident**, **Government** shall:

D 8.2.1 Prepare a written performance evaluation of **Crew** performance on the **Incident** using the Incident Crew Performance Rating Form (ICS 224), and

D 8.2.2 Hold a close out briefing with the **Contractor** to go over the evaluation and discuss any other **Crew** performance matters.

D 8.3 **Government Representative** shall give **Contractor** a copy of all evaluations at the **Incident** and shall forward one copy to the **Single Point of Contact**.

D 8.4 If **Government Representative** does not provide **Contractor** a written performance evaluation, **Contractor** shall request the evaluation from the **Government Representative** at the **Incident**. If **Government Representative** does not provide **Contractor** with the evaluation, **Contractor** may notify the **Single Point of Contact**.

Section F 3.1 is deleted and is replaced in its entirety to read as follows:

F 3.1 **Contractor** shall ensure all **Crew Members** arrive at the **Incident** with the proper Personal Protective Equipment (PPE) (see OAR Chapter 437), including PPE for eyes, face, head, and extremities. All PPE shall be maintained in a sanitary and reliable condition. Defective or damaged PPE shall not be used.

Exhibit K Schedule 1 – Federal Incidents is deleted and is replaced in its entirety to read as follows:

Exhibit K - Special Contract Terms and Conditions

SCHEDULE 1 - FEDERAL INCIDENTS

FEDERAL ACQUISITION REGULATION (FAR) CLAUSES

The following terms and conditions, as well as those incorporated herein, may apply to any Federal use.

52.212-4 Contract Terms and Conditions—Commercial Items.

Contract Terms and Conditions—Commercial Items (Feb 2012) – *Tailored to include Alternate 1 for labor-hour procurements.*

(a) Inspection/Acceptance.

(1) The **Government** has the right to inspect and test all materials furnished and **Services** performed under this contract, to the extent practicable at all places and times, including the period of performance, and in any event before acceptance. The **Government** may also inspect the plant or plants of the **Contractor** or any subcontractor engaged in contract performance. The **Government** will perform inspections and tests in a manner that will not unduly delay the work.

(2) If the **Government** performs inspection or tests on the premises of the **Contractor** or a subcontractor, the **Contractor** shall furnish and shall require subcontractors to furnish all reasonable facilities and assistance for the safe and convenient performance of these duties.

(3) Unless otherwise specified in the contract, the **Government** will accept or reject **Services** and materials at the place of delivery as promptly as practicable after delivery, and they will be presumed accepted 60 days after the date of delivery, unless accepted earlier.

(4) At any time during contract performance, but not later than 6 months (or such other time as may be specified in the contract) after acceptance of the **Services** or materials last delivered under this contract, the **Government** may require the **Contractor** to replace or correct **Services** or materials that at time of delivery failed to meet contract requirements. Except as otherwise specified in paragraph (a)(6) of this clause, the cost of replacement or correction shall be determined under paragraph (i) of this clause, but the “hourly rate” for labor hours incurred in the replacement or correction shall be reduced to exclude that portion of the rate attributable to profit. Unless otherwise specified below, the portion of the “hourly rate” attributable to profit shall be 10 percent. The **Contractor** shall not tender for acceptance materials and **Services** required to be replaced or corrected

without disclosing the former requirement for replacement or correction, and, when required, shall disclose the corrective action taken.

(5)(i) If the **Contractor** fails to proceed with reasonable promptness to perform required replacement or correction, and if the replacement or correction can be performed within the ceiling price (or the ceiling price as increased by the **Government**), the **Government** may—

(A) By contract or otherwise, perform the replacement or correction, charge to the **Contractor** any increased cost, or deduct such increased cost from any amounts paid or due under this contract; or

(B) Terminate this contract for cause.

(ii) Failure to agree to the amount of increased cost to be charged to the **Contractor** shall be a dispute under the Disputes clause of the contract.

(6) Notwithstanding paragraphs (a)(4) and (5) above, the **Government** may at any time require the **Contractor** to remedy by correction or replacement, without cost to the **Government**, any failure by the **Contractor** to comply with the requirements of this contract, if the failure is due to—

(i) Fraud, lack of good faith, or willful misconduct on the part of the **Contractor's** managerial personnel; or

(ii) The conduct of one or more of the **Contractor's** employees selected or retained by the **Contractor** after any of the **Contractor's** managerial personnel has reasonable grounds to believe that the employee is habitually careless or unqualified.

(7) This clause applies in the same manner and to the same extent to corrected or replacement materials or **Services** as to materials and **Services** originally delivered under this contract.

(8) The **Contractor** has no obligation or liability under this contract to correct or replace materials and **Services** that at time of delivery do not meet contract requirements, except as provided in this clause or as may be otherwise specified in the contract.

(9) Unless otherwise specified in the contract, the **Contractor's** obligation to correct or replace **Government-furnished property** shall be governed by the clause pertaining to **Government property**.

(b) **Assignment.** The **Contractor** or its assignee may assign its rights to receive payment due as a result of performance of this contract to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727). However, when a third party makes payment (e.g., use of the Governmentwide commercial purchase card), the **Contractor** may not assign its rights to receive payment under this contract.

(c) **Changes.** Changes in the terms and conditions of this contract may be made only by written agreement of the parties.

(d) **Disputes.** This contract is subject to the Contract Disputes Act of 1978, as amended ([41 U.S.C. 601-613](#)). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR [52.233-1](#), Disputes, which is incorporated herein by reference. The **Contractor** shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.

(e) **Definitions.** (1) The clause at FAR [52.202-1](#), Definitions, is incorporated herein by reference. As used in this clause—

(i) *Direct materials* means those materials that enter directly into the end product, or that are used or consumed directly in connection with the furnishing of the end product or **Services**.

(ii) *Hourly rate* means the rate(s) prescribed in the contract for payment for labor that meets the labor category qualifications of a labor category specified in the contract that are—

(A) Performed by the **Contractor**;

(B) Performed by the subcontractors; or

(C) Transferred between divisions, subsidiaries, or affiliates of the **Contractor** under a common control.

(iii) *Materials* means—

(A) Direct materials, including supplies transferred between divisions, subsidiaries, or affiliates of the **Contractor** under a common control;

(B) Subcontracts for supplies and incidental **Services** for which there is not a labor category specified in the contract;

(C) Other direct costs (e.g., incidental **Services** for which there is not a labor category specified in the contract, travel, computer usage charges, etc.);

(D) The following subcontracts for services which are specifically excluded from the hourly rate: NA, and

(E) Indirect costs specifically provided for in this clause.

(iv) *Subcontract* means any contract, as defined in FAR [Subpart 2.1](#), entered into with a subcontractor to furnish supplies or services for performance of the prime contract or a subcontract including transfers between divisions, subsidiaries, or affiliates of a contractor or subcontractor. It includes, but is not limited to, purchase orders, and changes and modifications to purchase orders.

(f) *Excusable delays*. The **Contractor** shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the **Contractor** and without its fault or negligence such as, acts of God or the public enemy, acts of the **Government** in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The **Contractor** shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

(g) Invoice.

(1) The **Contractor** shall submit an original invoice and three copies (or electronic invoice, if authorized) to the address designated in the contract to receive invoices. An invoice must include—

(i) Name and address of the **Contractor**;

(ii) Invoice date and number;

(iii) Contract number, contract line item number and, if applicable, the order number;

(iv) Description, quantity, unit of measure, unit price and extended price of the items delivered;

(v) Shipping number and date of shipment, including the bill of lading number and weight of shipment if shipped on **Government** bill of lading;

(vi) Terms of any discount for prompt payment offered;

(vii) Name and address of official to whom payment is to be sent;

(viii) Name, title, and phone number of person to notify in event of defective invoice; and

(ix) Taxpayer Identification Number (TIN). The **Contractor** shall include its TIN on the invoice only if required elsewhere in this contract.

(x) Electronic funds transfer (EFT) banking information.

(A) The **Contractor** shall include EFT banking information on the invoice only if required elsewhere in this contract.

(B) If EFT banking information is not required to be on the invoice, in order for the invoice to be a proper invoice, the **Contractor** shall have submitted correct EFT banking information in accordance with the applicable solicitation provision, contract clause (e.g., [52.232-34](#), Payment by Electronic Funds Transfer—Other Than Central **Contractor** Registration), or applicable agency procedures.

(C) EFT banking information is not required if the **Government** waived the requirement to pay by EFT.

(2) Invoices will be handled in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and Office of Management and Budget (OMB) prompt payment regulations at 5 CFR Part 1315.

(h) *Patent indemnity.* The **Contractor** shall indemnify the **Government** and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the **Contractor** is reasonably notified of such claims and proceedings.

(i) *Payments.* (1) **Services accepted.** Payment shall be made for **Services** accepted by the **Government** that have been delivered to the delivery destination(s) set forth in this contract. The **Government** will pay the **Contractor** as follows upon the submission of commercial invoices approved by the Contracting Officer:

(i) *Hourly rate.*

(A) The amounts shall be computed by multiplying the appropriate hourly rates prescribed in the contract by the number of direct labor hours performed. Fractional parts of an hour shall be payable on a prorated basis.

(B) The rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by individuals that do not meet the qualifications specified in the contract, unless specifically authorized by the Contracting Officer.

(C) Invoices may be submitted once each month (or at more frequent intervals, if approved by the Contracting Officer) to the Contracting Officer or the authorized representative.

(D) When requested by the Contracting Officer or the authorized representative, the **Contractor** shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract.

(E) Unless the Schedule prescribes otherwise, the hourly rates in the Schedule shall not be varied by virtue of the **Contractor** having performed work on an overtime basis.

(1) If no overtime rates are provided in the Schedule and the Contracting Officer approves overtime work in advance, overtime rates shall be negotiated.

(2) Failure to agree upon these overtime rates shall be treated as a dispute under the Disputes clause of this contract.

(3) If the Schedule provides rates for overtime, the premium portion of those rates will be reimbursable only to the extent the overtime is approved by the Contracting Officer.

(ii) *Materials.*

(A) If the **Contractor** furnishes materials that meet the definition of a commercial item at FAR [2.101](#), the price to be paid for such materials shall be the **Contractor's** established catalog or market price, adjusted to reflect the—

(1) Quantities being acquired; and

(2) Any modifications necessary because of contract requirements.

(B) Except as provided for in paragraph (i)(1)(ii)(A) and (D)(2) of this clause, the **Government** will reimburse the **Contractor** the actual cost of materials (less any rebates, refunds, or discounts received by the **Contractor** that are identifiable to the contract) provided the **Contractor**—

(1) Has made payments for materials in accordance with the terms and conditions of the **Agreement** or invoice; or

(2) Makes these payments within 30 **days** of the submission of the **Contractor's** payment request to the **Government** and such payment is in accordance with the terms and conditions of the **Agreement** or invoice.

(C) To the extent able, the **Contractor** shall—

(1) Obtain materials at the most advantageous prices available with due regard to securing prompt delivery of satisfactory materials; and

(2) Give credit to the **Government** for cash and trade discounts, rebates, scrap, commissions, and other amounts that are identifiable to the contract.

(D) *Other Costs*. Unless listed below, other direct and indirect costs will not be reimbursed.

(i) Records that verify that the employees whose time has been included in any invoice meet the qualifications for the labor categories specified in the contract;

(ii) For labor hours (including any subcontractor hours reimbursed at the hourly rate in the schedule), when timecards are required as substantiation for payment—

(A) The original timecards (paper-based or electronic);

(B) The **Contractor's** timekeeping procedures;

(C) **Contractor** records that show the distribution of labor between jobs or contracts; and

(D) Employees whose time has been included in any invoice for the purpose of verifying that these employees have worked the hours shown on the invoices.

(iii) For material and subcontract costs that are reimbursed on the basis of actual cost—

(A) Any invoices or subcontract Agreements substantiating material costs; and

(B) Any documents supporting payment of those invoices.

(5) *Overpayments/Underpayments*. Each payment previously made shall be subject to reduction to the extent of amounts, on preceding invoices, that are found by the Contracting Officer not to have been properly payable and shall also be subject to reduction for overpayments or to increase for underpayments. The **Contractor** shall promptly pay any such reduction within 30 days unless the parties agree otherwise. The **Government** within 30 days will pay any such increases, unless the parties agree otherwise. The **Contractor's** payment will be made by check. If the **Contractor** becomes aware of a duplicate invoice payment or that the **Government** has otherwise overpaid on an invoice payment, the **Contractor** shall—

(i) Remit the overpayment amount to the payment office cited in the contract along with a description of the overpayment including the—

(A) Circumstances of the overpayment (e.g., duplicate payment, erroneous payment, liquidation errors, date(s) of overpayment);

(B) Affected contract number and delivery order number, if applicable;

(C) Affected contract line item or subline item, if applicable; and

(D) **Contractor** point of contact.

(ii) Provide a copy of the remittance and supporting documentation to the Contracting Officer.

(6)(i) All amounts that become payable by the **Contractor** to the **Government** under this contract shall bear simple interest from the date due until paid unless paid within 30 days of becoming due. The interest rate shall be the interest rate established by the Secretary of the Treasury, as provided in section 611 of the Contract Disputes Act of 1978 (Public Law 95-563), which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six month period as established by the Secretary until the amount is paid.

(ii) The **Government** may issue a demand for payment to the **Contractor** upon finding a debt is due under the contract.

(iii) *Final Decisions*. The Contracting Officer will issue a final decision as required by FAR [33.211](#) if—

(A) The Contracting Officer and the **Contractor** are unable to reach agreement on the existence or amount of a debt in a timely manner;

(B) The **Contractor** fails to liquidate a debt previously demanded by the Contracting Officer within the timeline specified in the demand for payment unless the amounts were not repaid because the **Contractor** has requested an installment payment agreement; or

(C) The **Contractor** requests a deferment of collection on a debt previously demanded by the Contracting Officer (see FAR [32.607-2](#)).

(iv) If a demand for payment was previously issued for the debt, the demand for payment included in the final decision shall identify the same due date as the original demand for payment.

(v) Amounts shall be due at the earliest of the following dates:

(A) The date fixed under this contract.

(B) The date of the first written demand for payment, including any demand for payment resulting from a default termination.

(vi) The interest charge shall be computed for the actual number of calendar days involved beginning on the due date and ending on—

(A) The date on which the designated office receives payment from the **Contractor**;

(B) The date of issuance of a **Government** check to the **Contractor** from which an amount otherwise payable has been withheld as a credit against the contract debt; or

(C) The date on which an amount withheld and applied to the contract debt would otherwise have become payable to the **Contractor**.

(vii) The interest charge made under this clause may be reduced under the procedures prescribed in [32.608-2](#) of the Federal Acquisition Regulation in effect on the date of this contract.

(viii) Upon receipt and approval of the invoice designated by the **Contractor** as the “completion invoice” and supporting documentation, and upon compliance by the **Contractor** with all terms of this contract, any outstanding balances will be paid within 30 days unless the parties agree otherwise. The completion invoice, and supporting documentation, shall be submitted by the **Contractor** as promptly as practicable following completion of the work under this contract, but in no event later than 1 year (or such longer period as the Contracting Officer may approve in writing) from the date of completion.

(7) *Release of claims.* The **Contractor**, and each assignee under an assignment entered into under this contract and in effect at the time of final payment under this contract, shall execute and deliver, at the time of and as a condition precedent to final payment under this contract, a release discharging the **Government**, its officers, agents, and employees of and from all liabilities, obligations, and claims arising out of or under this contract, subject only to the following exceptions.

(i) Specified claims in stated amounts, or in estimated amounts if the amounts are not susceptible to exact statement by the **Contractor**.

(ii) Claims, together with reasonable incidental expenses, based upon the liabilities of the **Contractor** to third parties arising out of performing this contract, that are not known to the **Contractor** on the date of the execution of the release, and of which the **Contractor** gives notice in writing to the Contracting Officer not more than 6 years after the date of the release or the date of any notice to the **Contractor** that the **Government** is prepared to make final payment, whichever is earlier.

(iii) Claims for reimbursement of costs (other than expenses of the **Contractor** by reason of its indemnification of the **Government** against patent liability), including reasonable incidental expenses, incurred by the **Contractor** under the terms of this contract relating to patents.

(8) *Prompt payment.* The **Government** will make payment in accordance with the Prompt Payment Act ([31 U.S.C. 3903](#)) and prompt payment regulations at 5 CFR part 1315.

(9) *Electronic Funds Transfer (EFT).* If the **Government** makes payment by EFT, see [52.212-5\(b\)](#) for the appropriate EFT clause.

(10) *Discount*. In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date that appears on the payment check or the specified payment date if an electronic funds transfer payment is made.

(j) *Risk of loss*. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the **Contractor** until, and shall pass to the **Government** upon:

(1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or

(2) Delivery of the supplies to the **Government** at the destination specified in the contract, if transportation is f.o.b. destination.

(k) *Taxes*. The contract price includes all applicable Federal, State, and local taxes and duties.

(l) *Termination for the Government's convenience*. The **Government** reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the **Contractor** shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the **Contractor** shall be paid an amount for direct labor hours (as defined in the Schedule of the contract) determined by multiplying the number of direct labor hours expended before the effective date of termination by the hourly rate(s) in the contract, less any hourly rate payments already made to the **Contractor** plus reasonable charges the **Contractor** can demonstrate to the satisfaction of the **Government** using its standard record keeping system that have resulted from the termination. The **Contractor** shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the **Government** any right to audit the **Contractor's** records. The **Contractor** shall not be paid for any work performed or costs incurred that reasonably could have been avoided.

(m) *Termination for cause*. The **Government** may terminate this contract, or any part hereof, for cause in the event of any default by the **Contractor**, or if the **Contractor** fails to comply with any contract terms and conditions, or fails to provide the **Government**, upon request, with adequate assurances of future performance. In the event of termination for cause, the **Government** shall not be liable to the **Contractor** for any amount for supplies or **Services** not accepted, and the **Contractor** shall be liable to the **Government** for any and all rights and remedies provided by law. If it is determined that the **Government** improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

(n) *Title*. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the **Government** upon acceptance, regardless of when or where the **Government** takes physical possession.

(o) *Warranty*. The **Contractor** warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.

(p) *Limitation of liability*. Except as otherwise provided by an express warranty, the **Contractor** will not be liable to the **Government** for consequential damages resulting from any defect or deficiencies in accepted items.

(q) *Other compliances*. The **Contractor** shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.

(r) *Compliance with laws unique to Government contracts*. The **Contractor** agrees to comply with [31 U.S.C. 1352](#) relating to limitations on the use of appropriated funds to influence certain Federal contracts; [18 U.S.C. 431](#) relating to officials not to benefit; [40 U.S.C. 3701](#), *et seq.*, Contract Work Hours and Safety Standards Act; [41 U.S.C. 51-58](#), Anti-Kickback Act of 1986; [41 U.S.C. 265](#) and [10 U.S.C. 2409](#) relating to whistleblower protections; [49 U.S.C. 40118](#), Fly American; and [41 U.S.C. 423](#) relating to procurement integrity.

(s) *Order of precedence*. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order:

(1) The schedule of supplies/**services**.

(2) The Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to **Government** Contracts paragraphs of this clause.

(3) The clause at [52.212-5](#).

(4) Addenda to this solicitation or contract, including any license agreements for computer software.

(5) Solicitation provisions if this is a solicitation.

(6) Other paragraphs of this clause.

(7) The [Standard Form 1449](#).

(8) Other documents, exhibits, and attachments.

(9) The specification.

(t) System for Award Management (SAM).

(1) Unless exempted by an addendum to this contract, the **Contractor** is responsible during performance and through final payment of any contract for the accuracy and completeness of the data within the CCR database, and for any liability resulting from the **Government's** reliance on inaccurate or incomplete data. To remain registered in the CCR database after the initial registration, the **Contractor** is required to review and update on an annual basis from the date of initial registration or subsequent updates its information in the CCR database to ensure it is current, accurate and complete. Updating information in the CCR does not alter the terms and conditions of this contract and is not a substitute for a properly executed contractual document.

(2)(i) If a **Contractor** has legally changed its business name, "doing business as" name, or division name (whichever is shown on the contract), or has transferred the assets used in performing the contract, but has not completed the necessary requirements regarding novation and change-of-name agreements in FAR [Subpart 42.12](#), the **Contractor** shall provide the responsible Contracting Officer a minimum of one business day's written notification of its intention to (A) change the name in the CCR database; (B) comply with the requirements of [Subpart 42.12](#); and (C) agree in writing to the timeline and procedures specified by the responsible Contracting Officer.

The **Contractor** must provide with the notification sufficient documentation to support the legally changed name.

(ii) If the **Contractor** fails to comply with the requirements of paragraph (t)(2)(i) of this clause, or fails to perform the **Agreement** at paragraph (t)(2)(i)(C) of this clause, and, in the absence of a properly executed novation or change-of-name agreement, the CCR information that shows the **Contractor** to be other than the **Contractor** indicated in the contract will be considered to be incorrect information within the meaning of the "Suspension of Payment" paragraph of the electronic funds transfer (EFT) clause of this contract.

(3) The **Contractor** shall not change the name or address for EFT payments or manual payments, as appropriate, in the CCR record to reflect an assignee for the purpose of assignment of claims (see [Subpart 32.8](#), Assignment of Claims). Assignees shall be separately registered in the CCR database. Information provided to the **Contractor's** CCR record that indicates payments, including those made by EFT, to an ultimate recipient other than that **Contractor** will be considered to be incorrect information within the meaning of the "Suspension of payment" paragraph of the EFT clause of this contract.

(4) Offerors and Contractors may obtain information on registration and annual confirmation requirements via CCR accessed through <https://www.acquisition.gov> or by calling 1-888-227-2423 or 269-961-5757.

(End of clause)

52.212-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items – *tailored to include applicable clauses only.*

Contract Terms and Conditions Required to Implement Statutes or Executive Orders—Commercial Items (Mar 2012)

(a) The **Contractor** shall comply with the following Federal Acquisition Regulation (FAR) clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.222-50](#), Combating Trafficking in Persons (Feb 2009) ([22 U.S.C. 7104\(g\)](#)).

(2) [52.233-3](#), Protest After Award (AUG 1996) ([31 U.S.C. 3553](#)).

(3) [52.233-4](#), Applicable Law for Breach of Contract Claim (OCT 2004) (Pub. L. 108-77, 108-78).

(b) The **Contractor** shall comply with the FAR clauses in this paragraph (b) that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.203-6](#), Restrictions on Subcontractor Sales to the **Government** (Sept 2006), with Alternate I (Oct 1995) ([41 U.S.C. 253g](#) and [10 U.S.C. 2402](#)).

(4) [52.204-10](#), Reporting Executive Compensation and First-Tier Subcontract Awards (Feb 2012) (Pub. L. 109-282) ([31 U.S.C. 6101 note](#)).

(6) [52.209-6](#), Protecting the **Government's** Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment. (Dec 2010) (31 U.S.C. 6101 note).

(12)(i) [52.219-6](#), Notice of Total Small Business Set-Aside (Nov 2011) ([15 U.S.C. 644](#)).

(14) [52.219-8](#), Utilization of Small Business Concerns (Jan 2011) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)).

(17) [52.219-14](#), Limitations on Subcontracting (Nov 2011) ([15 U.S.C. 637\(a\)\(14\)](#)).

(23) [52.219-28](#), Post Award Small Business Program Rerepresentation (Apr 2009) ([15 U.S.C. 632\(a\)\(2\)](#)).

(26) [52.222-3](#), Convict Labor (June 2003) (E.O. 11755).

(27) [52.222-19](#), Child Labor—Cooperation with Authorities and Remedies (Mar 2012) (E.O. 13126).

(28) [52.222-21](#), Prohibition of Segregated Facilities (Feb 1999).

(29) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(30) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010)([38 U.S.C. 4212](#)).

(31) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).

(32) [52.222-37](#), Employment Reports on Veterans (SEP 2010) (38 U.S.C. 4212).

(33) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496).

(38) [52.223-18](#), Encouraging Contractor Policies to Ban Text Messaging While Driving (AUG 2011) (E.O. 13513).

(39) [52.225-1](#), Buy American Act—Supplies (Feb 2009) ([41 U.S.C. 10a-10d](#)).

(42) [52.225-13](#), Restrictions on Certain Foreign Purchases (June 2008) (E.O.'s, proclamations, and statutes administered by the Office of Foreign Assets Control of the Department of the Treasury).

(45) [52.232-29](#), Terms for Financing of Purchases of Commercial Items (Feb 2002) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).

(46) [52.232-30](#), Installment Payments for Commercial Items (Oct 1995) ([41 U.S.C. 255\(f\)](#), [10 U.S.C. 2307\(f\)](#)).

(47) [52.232-34](#), Payment by Electronic Funds Transfer—Other than Central Contractor Registration.

(49) [52.232-36](#), Payment by Third Party (Feb 2010) ([31 U.S.C. 3332](#)).

(c) The **Contractor** shall comply with the FAR clauses in this paragraph (c), applicable to commercial services, that the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(2) [52.222-42](#), Statement of Equivalent Rates for Federal Hires (May 1989) ([29 U.S.C. 206](#) and [41 U.S.C. 351](#), *et seq.*).

(3) [52.222-43](#), Fair Labor Standards Act and Service Contract Act—Price Adjustment (Multiple Year and Option Contracts) (Sep 2009) ([29 U.S.C. 206](#) and [41 U.S.C. 351](#), *et seq.*).

(d) *Comptroller General Examination of Record*. The **Contractor** shall comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in excess of the simplified acquisition threshold, and does not contain the clause at [52.215-2](#), Audit and Records—Negotiation.

(1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the **Contractor's** directly pertinent records involving transactions related to this contract.

(2) The **Contractor** shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR [Subpart 4.7](#), Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.

(3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the **Contractor** to create or maintain any record that the **Contractor** does not maintain in the ordinary course of business or pursuant to a provision of law.

(e)(1) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c), and (d) of this clause, the **Contractor** is not required to flow down any FAR clause, other than those in this paragraph (e)(1) in a subcontract for commercial items. Unless otherwise indicated below, the extent of the flow down shall be as required by the clause—

(i) [52.203-13](#), Contractor Code of Business Ethics and Conduct (Apr 2010) (Pub. L. 110-252, Title VI, Chapter 1 ([41 U.S.C. 251 note](#))).

(ii) [52.219-8](#), Utilization of Small Business Concerns (Dec 2010) ([15 U.S.C. 637\(d\)\(2\)](#) and (3)), in all subcontracts that offer further subcontracting opportunities. If the subcontract (except subcontracts to small business concerns) exceeds \$650,000 (\$1.5 million for construction of any public facility), the subcontractor must include [52.219-8](#) in lower tier subcontracts that offer subcontracting opportunities.

(iii) [Reserved]

(iv) [52.222-26](#), Equal Opportunity (Mar 2007) (E.O. 11246).

(v) [52.222-35](#), Equal Opportunity for Veterans (Sep 2010) ([38 U.S.C. 4212](#)).

(vi) [52.222-36](#), Affirmative Action for Workers with Disabilities (Oct 2010) ([29 U.S.C. 793](#)).

(vii) [52.222-40](#), Notification of Employee Rights Under the National Labor Relations Act (Dec 2010) (E.O. 13496). Flow down required in accordance with paragraph (f) of FAR clause [52.222-40](#).

(viii) [52.222-41](#), Service Contract Act of 1965 (Nov 2007) ([41 U.S.C. 351](#), *et seq.*).

(2) While not required, the **Contractor** may include in its subcontracts for commercial items a minimal number of additional clauses necessary to satisfy its contractual obligations.

(End of clause)

EMPLOYMENT OF ELIGIBLE WORKERS (FSAR 4G52.222-701) (DEC 1999)

Section 274A of the Immigration and Nationality Act (8 USC 1324a) makes it unlawful for an employer to hire unauthorized aliens. The Immigration and Naturalization Service (INS), now the United States Citizen and Immigration Services, established the Form I-9, Employment Eligibility Verification Form, as the document to be used for employment eligibility verification (8 CFR 274a).

The **Contractor** is required to:

1. Have all employees complete and sign the I-9 Form to certify that they are eligible for employment;

2. Examine documents presented by the employee and ensure the documents appear to be genuine and related to the individual;
3. Record information about the documents on the form, and complete the certification portion of the form;
4. Retain the form for 3 years, or 1 year past the end of employment of the individual, whichever is longer.

It is illegal to discriminate against any individual (other than a citizen of another country who is not authorized to work in the United States) in hiring, discharging, or recruiting because of that individual's national origin or citizenship status.

Compliance with Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a) is a material condition of the **Agreement**. If the **Contractor** employs unauthorized workers during contract performance in violation of section 274A, the **Government** may terminate the **Agreement**, in addition to other remedies or penalties prescribed by law.

For further information on the requirements of the Act, contractors should contact the Employer and Labor Relations Officer of their local United States Citizen and Immigration Services office.

LABOR STANDARDS FOR CONTRACTS INVOLVING MIGRANT AND SEASONAL AGRICULTURAL WORKERS (4G52.222-702) (DEC 1999)

(a) General. This contract is subject to the Migrant and Seasonal Agricultural Workers Protection Act (**MSPA**) (29 U.S.C 1801-1872) and to Department of Labor regulations implementing **MSPA** (29 CFR 500). The purpose of **MSPA** is to eliminate activities that are detrimental to migrant and seasonal agricultural workers, to require registration of farm labor contractors, and to ensure necessary protections for the workers. In addition to traditional farm labor activities, the Act applies to recruiting, soliciting, hiring, employing, furnishing, or transporting any migrant or seasonal worker for predominantly manual forestry work, including but not limited to tree planting, brush cleaning, precommercial tree thinning, and forest firefighting.

(b) Definitions.

"Migrant Agricultural Worker" and "Seasonal Agricultural Worker," as used in this clause, mean individuals employed in agricultural (including forestry) work on a seasonal or temporary basis. A worker who moves from one seasonal activity to another is employed on a seasonal basis even though the worker may continue to be employed during a major portion of the year. Migrant workers are required to be absent overnight from their permanent place of residence. Seasonal workers are not required to be absent overnight from their permanent place of residence. Members of the **Contractor's** immediate family are not considered to be either migrant or seasonal workers. "Immediate family" includes only:

1. Spouse;
2. Children, stepchildren, or foster children;
3. Parents, stepparents, or foster parents; and
4. Brothers and sisters.

"Farm Labor **Contractor**," as used in this clause, means an individual who, for any money or other valuable consideration, paid or promised to be paid, performs any recruiting, soliciting, hiring, employing, furnishing, or transporting of any migrant or seasonal agricultural worker.

(c) Registration Requirement. Any **Contractor** who provides or hires migrant or seasonal workers to perform agricultural or manual forestry work shall first obtain a Federal Department of Labor Certificate of Registration. The **Contractor** shall carry the Certificate at all times while engaged in contract performance, and shall display it upon request. Any of the **Contractor's** employees who perform any one or more of the activities defined for a "Farm Labor **Contractor**" in paragraph (b) must have their own Farm Labor **Contractor** Employee Certificate.

(d) Worker Protections. The **Contractor** shall comply with the following protections and standards related to wage disclosure, record keeping, vehicle safety, and housing:

(1) The **Contractor** shall display and maintain at the place of employment the **MSPA** poster provided by the Department of Labor.

(2) Wage and Payroll Standards.

(i) The **Contractor** shall disclose in writing to each worker in a language common to the worker the full terms of their employment, including workers compensation information, at the time they are recruited or hired. The Department of Labor provides an optional Form WH-516 for **Contractor's** use in disclosure.

(ii) The **Contractor** shall keep the following payroll records for each employee: name, address, social security number, basis for wages (that is, per hour, per tree, per acre), number of units earned if paid on a per unit basis, hours worked, total pay, withholdings and purpose for each, and net pay. Payroll records must be retained for 3 years.

(iii) Payments must be made no less frequently than every 2 weeks or semi-monthly. At the time of each payment, the **Contractor** shall provide to the employee a written itemization of the information listed in paragraph ii and shall include the employer's tax identification number.

(iv) If paid on a piece rate basis, the employee's wage must be at least equivalent to the required hourly wage for the hours worked, including overtime differential for time in excess of 40 hours per week.

(3) Motor Vehicle Safety.

(i) The **Contractor** shall be registered to transport employees, unless employees provide their own transportation or carpool by their own arrangement in one of their own vehicles. The authorization to transport employees must appear on the **Contractor's** certificate. If the **Contractor** directs or requests employees to carpool, the registration requirement is applicable. Any driver who transports workers for a fee or at the direction of the **Contractor** shall be registered as a farm labor **Contractor** or a farm labor **Contractor** employee.

(ii) Any vehicle under the ownership or control of the **Contractor** must comply with safety standards applicable to that vehicle. Generally, passenger vehicles or station wagons must comply with Department of Labor regulations at 29 CFR 500.104.

Vehicles other than passenger vehicles or station wagons that are driven on any trip for a distance greater than 75 miles by a farm labor **Contractor** or agricultural employer to transport any migrant or seasonal agricultural worker must comply with Department of Transportation Regulations at 29 CFR 500.105. One trip may have numerous stops. All drivers shall have a current, valid State driver's license.

(iii) Each vehicle under the ownership or control of the **Contractor** that is used to transport any migrant or seasonal agricultural worker must be covered by vehicle insurance of \$100,000 per seat (maximum \$5,000,000). A workers compensation policy that covers the workers while being transported plus an additional property damage policy for \$50,000 for loss or damage in any one accident to the property of others may be substituted for the vehicle insurance requirement.

(4) Housing.

(i) The **Contractor** shall house workers only in a commercial establishment or a facility that has been certified by a health authority or other appropriate agency or, if permitted by the Forest Service, in a camp on National Forest Lands as in 4G52.222-705. The **Contractor** must post the certificate of occupancy at the housing site.

(ii) The authorization to furnish housing, other than commercial lodging, must appear on the **Contractor's** certificate.

(e) For further information on the requirements of the Act, **Contractors** should contact their local Wage and Hour Division of the Department of Labor.

The Migrant and Seasonal Agricultural Worker Protection Act (**MSPA**) (29 U.S.C. 1801-1872) and implementing regulations issued by the Department of Labor (29 CFR 500), require any employer who hires or anticipates hiring employees subject to **MSPA** to obtain a **MSPA** registration number.

If the **Contractor** employs or anticipates hiring employees subject to **MSPA**, the **Contractor** shall provide a valid U.S. Department of Labor **MSPA** Registration Number to the Contracting Officer within days (30 days unless a shorter time is specified) after notification of award of the contract. The **MSPA** Registration Number is the number on the Farm Labor **Contractor's** DOL-issued Certificate.

The **Government** may demand that the **Contractor** display **MSPA** registration at any time during contract performance if it appears that the **contractor** is employing workers subject to **MSPA**. On demand, the **Contractor** shall display its **MSPA** registration or state why it is exempt from **MSPA**.

Compliance with **MSPA** is a material condition of the contract. If the **Contractor** fails to provide a valid **MSPA** number in accordance with this clause, or falsely states that it is exempt from the **MSPA**, the **Government** may terminate the contract, in addition to other remedies or penalties prescribed by law.

PERSONAL PROTECTIVE EQUIPMENT (4G52.222-704) (FEBRUARY 2007)

The **Contractor** shall train workers in the safe operation and use of **equipment** that the worker may use before the worker begins using such **equipment**.

Personal protective **equipment**, including personal protective **equipment** for eyes, face, head, and extremities must be provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards or processes encountered which may cause injury or impairment in the function of any part of the body. Defective or damaged personal protective **equipment** must not be used.

The **Contractor** shall provide chain saw chaps to each employee who operates a chain saw, at no cost to the employee. These chaps must be approved by an Underwriters Laboratory or meet Forest Service specification 6170-47. The chaps must cover the full length of the thigh and must extend to the top of the boot on each leg.

The **Contractor** shall assure that each employee wears foot protection that provides adequate traction and ankle support. Employees operating chain saws shall wear foot protection that is constructed with cut-resistant material that will protect the employee against contact with a running chain saw.

In any area where the worker is exposed to the potential for flying or falling objects, the **Contractor** shall provide a hard hat, at no cost to the employee, and the **Contractor** shall assure that the employee wears the hard hat. The hard hat must meet the minimum requirements of American National Standards Institute (ANSI) standard Z89.1-1997.

The **Contractor** shall provide, at no cost to the employee, eye protection where there is potential for eye injury due to flying objects. This eye protection must meet the minimum requirements of ANSI standard Z87.1-2003.

The **Contractor** shall provide, at no cost to the employee, hearing protection where there is a potential for hearing loss due to high intensity noise for example, chain saw operation.

CAMPING PROVISIONS FOR LABOR INTENSIVE CONTRACTS (4G52.222-705) (FEB 2007)

The following provisions apply to all camping on National Forest lands during performance of this contract:

These provisions are in addition to those contained in, or provided for, in the clause titled "Use of Premises," in this contract.

Every structure used as shelter must provide protection from the elements. Where heat adequate for weather conditions is not provided, other arrangements should be made to protect workers from the cold. Firewood may be cut only after obtaining a District Firewood Permit.

The campsite must not encroach beyond the boundaries designated by the Forest Service. The campsite must be located so as to minimize impacts on streams, lakes, and other bodies of water. No camping is permitted within developed recreation sites or along primary recreation roads.

The campsite must have a clean appearance at all times. Upon abandonment of any campsite, or termination, revocation, or cancellation of camping privileges, the **Contractor** shall remove, within 10-calendar days, all structures and improvements except those owned by the United States, and shall restore the site, unless otherwise agreed upon in writing or in the camping permit. If the **Contractor** fails to remove all structures or improvements within the 10-calendar days, they shall become the **property** of the United States, but that will not relieve the **Contractor** of liability for the cost of their removal and restoration of the site.

Unless otherwise designated by the contracting officer, the use of this area is not exclusive, and may be granted to other permittees, contractors, or recreating public. Disorderly conduct is not permitted.

Damaging or removing any natural feature or other **property** of the Forest Service is prohibited.

Servicing of **equipment** in the campsite is not permitted, unless the campsite is within the project area.

Sanitary facilities must be provided for storing food. Ice chests or coolers, with ice supply made from potable water and replenished as necessary, must be provided and sufficient for the storage of perishable food items.

An adequate and convenient potable water supply must be provided in each camp for drinking and cooking purposes.

Toilet facilities adequate for the capacity of the camp must be provided and supplied with adequate toilet paper. Such facilities must be serviced and maintained in a sanitary condition.

Garbage must be collected, stored, and disposed of in such a manner as to prevent scattering by the wind, minimize attraction of flies, and discourage access by rodents.

Basic first aid supplies must be maintained, available, and under the charge of a person trained to administer first aid. The supplies must include:

1. Gauze pads (at least 4x4 inches),
2. Two large gauze pads (at least 8x10 inches),
3. Box adhesive bandages (band-aids),
4. One package of gauze roller bandage at least 2-inches wide,
5. Two triangular bandages,
6. Scissors,
7. At least one blanket,
8. Tweezers,
9. Adhesive tape,
10. Latex gloves, and
11. Resuscitation device such as resuscitation bag, airway, or pocket mask.

Any washing of laundry must be done in such a way as to provide for washing and rinsing without polluting lakes, streams, or other flowing water.

Waste water must be disposed of away from living and eating areas and in a fashion that minimizes pollution to lakes, streams, and other flowing water.

The **Contractor** shall take all reasonable precautions to prevent and suppress forest fires. No material must be disposed of by burning in open fires during the closed **season** established by law or regulation without the written permission from the Forest Service.

The **Contractor** shall comply with the following fire regulations during fire **season**:

During the fire **season**, a shovel, axe or Pulaski, 10-quart pail which is full of water for immediate use, and a fire extinguisher with an Underwriters Laboratory (UL) rating of at least 1:A 10:BC is required.

All fire rings or outside fireplaces must be approved by the Forest Service representative. The area must be cleared down to mineral soil for a distance of 1 foot outside of the ring or fireplace, and it must not have any overhanging material. Fire rings must be dismantled and material disposed prior to leaving the site.

All generators and other internal combustion engines must be equipped with Forest Service approved spark arrestors and/or factory designed muffler and exhaust system in good working order. They will be located in a cleared area with the same requirements as in described in the previous paragraph.

All fuel must be stored in UL approved flammable storage containers and be located at least 50 feet from any open flame or other source of ignition.

Any violation of these conditions constitutes a breach of contract, and may result in revocation of camping approval.

The Forest Service reserves the right to terminate a camping permit at any time.

3. Except as expressly amended above, all other terms and conditions of the original **Agreement** are still in full force and effect. Contractor certifies that the representations, warranties and certifications contained in the original **Agreement** are true and correct as of the effective date of this Amendment and with the same effect as though made at the time of this Amendment.

Certification: The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury: (a) the number shown on this form is Contractor’s correct taxpayer identification; (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding; (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor’s payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws (including, without limitation, the following pursuant to OAR 150-305.385(6)-(B): For purposes of this certification, “Oregon tax laws” means the tax laws names is ORS 305.380 (4), including without limitation the state inheritance tax, gift tax, personal income tax, withholding tax, corporation income and excise taxes, amusement device tax, timber taxes, cigarette tax, other tobacco tax., 9-1-1 emergency communications tax, the homeowners and renters property tax relief program and local taxes administered by the Department of Revenue (Multnomah County Business Income Tax, Lane Transit District Tax, Tri-Metropolitan Transit District Employer Payroll Tax, and Tri-Metropolitan District Self-Employment Tax; (d) Contractor is an independent contractor as defined in ORS 670.600; and (e) the supplied Contractor data is true and accurate.

CONTRACTOR

By Signature: _____

Printed Name: _____

Title: _____

Company Name: _____

Date: _____

STATE OF OREGON by and through its Agency

By: _____

Shannon Rand- Designated Procurement Officer

Date