

EXHIBIT H

****TERMS AND CONDITIONS****

Washington Department of Natural Resources

These terms and conditions apply to contracted resources when hired to an incident where Washington State Department of Natural Resources (DNR) is the paying agency.

DNR reserves the right to dispatch resources based upon closest forces, cost effectiveness, and other considerations and is NOT required to utilize the Dispatch Priority List (DPL); ONLY when DNR is the jurisdictional/paying agency.

AUTHORITY: Under RCW 76.04.015 and RCW 76.04.181, DNR may enter into preemptive agreements with landowners and others who have firefighting capability that may be utilized in DNR wildland fire suppression efforts or other responses authorized through emergency declarations.

In consideration of the terms, conditions and covenants contained herein, or attached and incorporated herein by reference, the parties mutually agree as follows:

1.01 THE CONTRACTOR SHALL:

(a) Require the Contractor's personnel and equipment to be under the supervision of DNR-recognized wildland fire personnel when engaged or supporting in fire suppression activities. Such personnel and equipment must remain under such supervision until DNR-recognized wildland fire personnel release them from the assigned wildfire incident.

2.01 DNR SHALL:

(a) Provide dispatch instructions to the Contractor when assigned to fire suppression operations or when placed on standby.

(b) Release the Contractor's personnel and equipment in the Interagency Resource Ordering Capability (IROC) as soon as possible when no longer needed at a wildfire incident.

3.01 TRAINING/EXPERIENCE: Follow Federal terms and conditions.

4.01 INDEPENDENT CAPACITY OF CONTRACTOR: The Contractor and its employees or agents performing under this Agreement are not employees or agents of the DNR. The Contractor will not represent itself nor claim to be an officer or employee of the DNR or of the state of Washington by reason hereof, nor will the Contractor make any claims of right, privilege or benefit which would accrue to such employee under Washington law.

5.01 RIGHT OF INSPECTION: Follow Federal terms and conditions.

6.01 COMPENSATION AND PAYMENT: DNR will pay Contractor upon acceptance of services provided and receipt of complete and accurate pay documents, at the DNR office indicated on the Emergency Equipment Use Invoice (OF-286). In order to be paid, the Contractor will need to complete the Vendor Payee Registration form with the Office of Financial Management (OFM) those forms can be found [here](#).

DNR cannot make payments unless you have completed this registration. Payments made by DNR shall be considered timely if DNR authorizes the release of payment within thirty (30) days after receipt of Contractor's pay documents deemed acceptable by DNR. Payment shall be sent to the address designated by the Contractor.

All contract equipment hired by the DNR will be paid according to the rate established in that agreement. A copy of the agreement SF-1449, schedule of items and vendor information page OR EERA will be provided by the contractor at check-in on the incident.

7.01 SALES, USE AND OTHER TAXES: DNR is required to pay Washington State Sales tax on certain purchased goods and services. Taxes due on payments made under this agreement will be remitted directly to the State of Washington Department of Revenue by DNR.

8.01 RATES: Follow Federal terms and conditions.

9.01 TIME RECORDING: Follow Federal terms and conditions.

10.01 TIME UNDER HIRE: Follow Federal terms and conditions.

11.01 ON SHIFT: Follow Federal terms and conditions.

12.01 DAILY RATE: Follow Federal terms and conditions.

13.01 SEVERITY/STANDBY: Follow Federal terms and conditions.

14.01 HEAVY EQUIPMENT AND TRANSPORTS: Follow Federal terms and conditions.

15.01 REMAIN OVERNIGHT ALLOWANCE (RON): Follow Federal terms and conditions.

(a) Contractors under this agreement are not paid per diem or lodging expenses to and from incidents.

(b) When the incident cannot provide a campsite after the first shift worked, actual lodging expenses or the per diem locality rate published by OFM Statewide Accounting in the Washington State Administrative and Accounting Manual (SAAM), subsection 10.90. Rate map may be found at <http://ofm.wa.gov/resources/travel.asp>. Double occupancy of hotel rooms is required. Any associated lodging taxes are reimbursable as documented. Lodging receipts, as well as documentation by incident personnel that a campsite was not provided, shall be submitted as supporting documentation with payment documents.

16.01 DEDUCTIONS: The DNR shall make no deductions from the stated amount of compensation for income tax, social security taxes, medical insurance, industrial insurance, license fees, or any other taxes, insurance or expenses. Contractor is solely responsible for all such deductions.

17.01 LICENSING, ACCREDITATION AND REGISTRATION: The Contractor shall comply with all applicable local, state and federal laws, licensing, accreditation and registration requirements or standards necessary for the performance of this Agreement.

18.01 CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE: Follow Federal terms and conditions.

19.01 NON-DISCRIMINATION: Follow Federal terms and conditions.

20.01 INDEMNITY: To the fullest extent permitted by law, Contractor shall indemnify, defend, and hold harmless the State of Washington, agencies of the State and all officials, agents and employees of the State, from and against all claims for injuries or death arising out of or resulting from the negligence of Contractor or the negligence of Contractor's agents and employees in the performance of this Agreement. "Claim," as used in this contract, means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom.

Contractor's obligations to indemnify, defend, and hold harmless includes any claim by Contractor's agents, employees, representatives, or any subcontractor of Contractor or its employees.

Contractor's obligation to indemnify, defend, and hold harmless the State shall not extend to claims that arise from the sole negligence of the State. Contractor waives its immunity under Title 51 RCW to the extent it is required to indemnify, defend and hold harmless the State and its agencies, officials, agents or employees.

21.01 RETENTION OF RECORDS: Follow Federal terms and conditions.

22.01 CONFLICT OF INTEREST: DNR may, in its sole discretion, by written notice to the Contractor, demob the vendor if it is found after due notice and examination by DNR, that there is a violation of the State Ethics Law, Chapter 42.52 RCW or any similar statute involving the Contractor in the procurement of, or performance under, this Agreement.

23.01 DISPUTES: Except as otherwise provided in this Agreement, when a dispute arises between the parties and it cannot be resolved by direct negotiation, either party may request a dispute hearing with the delegate authorized to act on behalf of the Commissioner of Public Lands (Agent).

The request for a dispute hearing must:

- (a) Be in writing;
- (b) State the disputed issue(s);
- (c) State the relative positions of the parties;
- (d) State the Contractor's name, address, and Agreement number; and
- (e) Be mailed to the Agent and the other party's (respondent's) Agreement manager within 3 working calendar days after the parties agree that they cannot resolve the dispute.

1. The respondent shall send a written answer to the requester's statement to both the Agent and the requester within 5 working calendar days.

2. The Agent shall review the written statements and reply in writing to both parties within 10 working days. The Agent may extend this period if necessary by notifying the parties.

3. The parties agree that this dispute process shall precede any action in a judicial or quasi-judicial tribunal.

Nothing in this Agreement shall be construed to limit the parties' choice of a mutually acceptable alternate dispute resolution method in addition to the dispute resolution procedure outlined above.

24.01 JURISDICTION/VENUE/ATTORNEYS' FEES: This Agreement shall be construed and interpreted under the laws of the state of Washington and the venue of any action brought under this Agreement shall be in the Superior Court of Thurston County. The Contractor, by execution of this Agreement, acknowledges the jurisdiction of the courts of the state of Washington in this matter. In the event of litigation or other action brought to enforce the terms of this Agreement, each party agrees to bear its own attorneys' fees and costs.

25.01 SEVERABILITY: Follow Federal terms and conditions.

26.01 WAIVER: Follow Federal terms and conditions.

27.01 ASSIGNABILITY: Follow Federal terms and conditions.

28.01 ENTIRE TERMS AND CONDITIONS: Follow Federal terms and conditions.

29.01 VIPR AGREEMENT THIRD PARTY RIGHTS: Follow Federal terms and conditions.

THIS SECTION ONLY APPLIES TO VENDORS WITH VIPR AGREEMENTS.

(a) Nothing in this agreement shall be construed to give any person or entity other than the parties to this agreement any legal or equitable right, remedy, or claim, under, or respect to, this agreement or any provision of this agreement except as outlined in subsection (b).

(b) The state of Washington, Department of Natural Resources, is an intended third-party beneficiary of this agreement. If Contractor accepts a DNR dispatch, then Contractor agrees to comply with all applicable VIPR terms and conditions and Exhibit [H]: Terms and Conditions – Washington State Department of Natural Resources.