

TYPE 2 FIRELINE CREW/SUPPRESSION MODULE AGREEMENT

This Agreement is entered into by and between the State of Montana, Department of Natural Resources and Conservation (DNRC), whose address and phone number are MT DNRC Fire Protection Bureau, 2705 Spurgin Road, Missoula, MT 59804, (406) 542-4300 and, (CONTRACTOR), whose address and phone number are (ADDRESS) and (PHONE).

1. SCOPE OF THE AGREEMENT AND PROVISIONS OF RESOURCES

The purpose of this Agreement is to establish terms, conditions, and specifications for a **Type 2 Fireline Crew/Suppression Module Agreement** (T2-IA, T2, and Suppression Module) to provide fire suppression services for State government agencies throughout the Northern Rockies Geographic Area. The Contractor's fixed-price hourly rates shall include, but are not limited to all labor, equipment, materials, state, and federal taxes, including workers' compensation costs, insurance coverage, non-compensable transportation costs, overhead, and profit. The Contractor is responsible for furnishing and managing all equipment, materials, supplies, transportation, lodging, and trained/certified personnel necessary to meet or exceed the contract specifications. The Contractor shall provide the State one or more of the following:

- **Type 2-IA Crew consisting of 18 to 20 crew members including 1 CRWB plus 3 ICT5 and 3 qualified Sawyers (60% 1 season or more of experience) OR**
- **Type 2 Crew consisting of 18 to 20 crew members including 1 Crew Boss (CRWB) plus 3 FFT1 firefighters (20% 1 season or more of experience)**
- **Suppression Module consisting of 8 - 10 crew members, including 1 Crew Boss plus 2 FFT1 firefighters**

MT DNRC, Montana Disaster and Emergency Services (MDES), the Idaho Department of Lands (IDL), North Dakota Forest Service (NDFS) (collectively referred to herein as 'State') are hereby authorized to use the Agreement in accordance with the terms and conditions set forth herein. **This is a State of Montana agreement only and is not to be used by the federal government.**

1.1 The contract's initial Agreement term is June 1, 2023, through May 31, 2024, unless terminated earlier as provided in this contract.

1.2 The resources provided by the Contractor must meet and comply with all the applicable requirements of this Agreement.

1.3 Contractor must maintain and provide proof of training records for firefighter positions on all proposed crews upon request by the State.

1.4 Since the needs of the State and availability of Contractor's resources during an emergency cannot be determined in advance, it is mutually agreed that, upon request of the State, the Contractor shall furnish the resources listed herein to the extent the Contractor is willing and able at the time of order. The State is not obligated to place, nor is the Contractor obligated to accept, an order under the Agreement, but if an order is placed and accepted, all the terms and conditions set forth shall be met. Due to the sporadic occurrence of incident activity, the placement of any order **IS NOT GUARANTEED**.

1.5 This Agreement does not guarantee that the Contractor will receive a dispatch to provide services. Nothing in this Agreement shall preclude the State from utilizing resources from any source prior to or instead of the Contractor resources provided by Contractor pursuant to this Agreement when, at the

discretion of the State, such utilization is in the public interest of effectively and efficiently deploying available resources to best control an existing fire situation.

1.6 CONTRACTOR LIABILITY FOR PERSONAL INJURY AND/OR PROPERTY DAMAGE

1.6.1 Contractor Liability for Personal Injury and/or Property Damage

- a. The Contractor assumes responsibility for all damage or injury to persons or property occasioned through the use, maintenance, and operation of the Contractor's vehicles or other equipment by, or the action of, the Contractor or the Contractor's employees and agents.
- b. The Contractor, at the Contractor's expense, shall maintain adequate commercial liability and property damage insurance during the continuance of this Agreement, insuring the Contractor against all claims for injury or damage.
- c. The Contractor shall maintain workers' compensation and other legally required insurance with respect to the Contractor's own employees and agents, as more specifically addressed in Section 4.3.5 below.
- d. The State shall in no event be liable or responsible for damage or injury to any person or property occasioned through the use, maintenance, or operation of any vehicle or other equipment by, or the action of, the Contractor or the Contractor's employees and agents in performing under this Agreement, and the State shall be indemnified and saved harmless against claims for damage or injury in such cases.

1.6.2 Loss, Damage, or Destruction For equipment furnished under this Agreement with operator, the State shall not be liable for any loss, damage, or destruction of such equipment, except for loss, damage, or destruction resulting from the negligence, or wrongful act(s) of state employee(s) while acting within the scope of their employment. The operator is responsible for operating the equipment within its operating limits and is responsible for safety of the equipment.

2. CLAIMS

CLAIMS SETTLEMENT IS AGENCY SPECIFIC AND REMAINS THE RESPONSIBILITY OF THE INCIDENT AGENCY.

2.1 STATE OF MONTANA CLAIMS Depending on the circumstance, claims arising under the jurisdiction of the State of Montana are negotiated by the responsible line officer or agency administrator. These individuals may delegate this authority to other DNRC employees (any DNRC employee negotiating a claim must be on the DNRC Authorized Signers List). For information on handling claims against the DNRC, see the 300 Incident Business Management Manual, Chapter 370, found at: <https://dnrc.mt.gov/Forestry/Wildfire/agreements-plans-guides>, or contact the Fire Protection Bureau: Forestry Division Office, Department of Natural Resources and Conservation, 2705 Spurgin Road, Missoula, MT 59804; office phone: (406) 542-4300.

2.2 STATE OF IDAHO CLAIMS Settlements arising under the jurisdiction of the State of Idaho must be submitted in writing to the IDL host agency. The IDL host agency will submit the claim documentation to the Fire Business Program Manager, Bureau of Fire Management, who may settle the claim or forward it to Risk Management for final determination. Claims may also be submitted in writing to the Fire Business Program Manager, Bureau of Fire Management, 3284 West Industrial Loop, Coeur d'Alene, ID 83815-6021; office phone: (208) 769-1525.

2.3 STATE OF NORTH DAKOTA CLAIMS Claims against the State of North Dakota must be made in writing to the Director of Office of Management and Budget. The claim must be filed within 180 days of when the alleged incident was discovered or reasonably should have been discovered. Claim forms may be requested from the Office of Management and Budget, 600 East Boulevard Avenue, Department 110, Bismarck, ND 58505-0400; phone: (701) 328-4904.

3. ORDERING/DISPATCH PROCEDURE

This Agreement is for Northern Rockies Geographic Area dispatches only unless there is an approval to go out-of-GACC. This Agreement is not valid for use on federal jurisdiction incidents.

The State intends to dispatch Contractor resources based on geographic resource lists established in Dispatch. Orders will primarily come through Dispatch, although Buying Teams and State purchasers are authorized to place orders.

When receiving a dispatch call, the Contractor shall confirm their availability and ability to meet specified timeframes. **It is the responsibility of the Contractor to ensure the assignment is a State fire, not a federal fire, prior to acceptance.** If the Contractor cannot be reached or is not able to meet the time and date needed, the dispatcher may proceed with contacting the next resource. Contractors shall check in at the assignment at the time agreed when dispatched.

At the time of acceptance of the assignment, the following information will be given to the Contractor:

- a. Resource order number
- b. Incident order number and name of the Incident
- c. Date and time to report to the incident
- d. Descriptive location of the designated site where the Contractor shall meet an incident representative (a map will be provided, if available)
- e. Incident contact phone number for further information
- f. Fire charge code/funding code

The Contractor is required to provide a copy of their resource order and Agreement to the Plans and Finance Units upon check-in.

Prior to departing for the incident, the Contractor shall provide to Dispatch, the name of the Crew Boss (CRWB) dispatched with the resources along with a crew manifest, and the estimated time of departure and estimated time of arrival from the point of dispatch.

Resource orders may be cancelled at any time. If the crew is cancelled enroute, payment will be made for travel time.

Dispatch offices may use email or fax to provide a hard copy of the resource order to the Contractor.

Contractor is REQUIRED to meet agreed upon date and time once an order has been accepted by the Contractor.

3.1 DISPATCH/DELIVERY REQUIREMENTS Crews will be dispatched through a Northern Rockies Dispatch Center. The Contractor will be listed on an established geographic resource list. When Contractor's resources are listed as unavailable, the resources will not be eligible for dispatch under this Agreement. For this Agreement to be valid it must be signed by the Contractor and a pre-use inspection must be passed or this Agreement will not be considered valid.

3.2 AVAILABILITY The Contractor is responsible for maintaining their status by informing their Host Dispatch Center of their availability. When Contractor resources are listed as unavailable, the resources will not be eligible for dispatch under this Agreement.

3.3 DISPATCH PROCEDURE The geographic resource list will identify Contractor resource location. The state ordering official (Dispatch, Local Office, etc.) will consult the geographic resource list when an incident occurs and choose the Contractor closest to the incident taking Contractor mobilization into consideration. The ordering official will inform the Contractor of the location, quantity required, and date and time needed. If that Contractor is unable to meet the requirements, the next closest Contractor will be contacted. The State reserves the right to utilize Contractors' resources in a manner that it deems to be in the best interest of the State.

3.4 INSPECTIONS Pre-season inspections are required before Contractor is listed as available in IROC.

All resources furnished under this Agreement shall be in acceptable condition. The State reserves the right to reject resources that are not in safe and operable condition. Prior to acceptance of any specific vehicle for incident use, the vehicle shall be inspected utilizing the Vehicle/Heavy Equipment Safety Inspection Checklist (OF-296) to determine that it meets all the terms, conditions, and specifications set forth herein (see Attachment F – Vehicle/Heavy Equipment Safety Inspection Checklist [OF-296]). The vehicle shall be safe (brakes, tires, headlights, turn indicators, etc.), and in good mechanical condition at the time of the pre-use inspection and all vehicle tires must have a minimum tire tread depth of 4/32 inches. Vehicles shall also be equipped with a full-size spare tire, wheel wrench, and jack.

The inspections will take place either at the location of the Dispatch Office placing the order or at the location of the incident camp. This will depend upon logistical considerations at the time of hire.

3.4.1 Crew Inspection A crew manifest is required and will include names of individuals and qualifications. All personnel are required to have current picture identification and qualification cards, with verification by an MOU inspector. These documents normally consist of a valid/current driver's license, and red card (see Attachment G – Hand Crew Inspection Form).

3.4.2 Vehicle Inspection Vehicles that fail the inspection or fail to comply with applicable laws such as exceeding Gross Vehicle Weight Rating (GVWR) for the capacity offered, dyed diesel fuel, etc. shall be rejected. Equipment may be re-inspected after repairs or other identified deficiencies are rectified. Contractors may not attempt to pursue an alternative inspection for failed equipment without discussing the circumstances with the affected hiring incident (see Attachment F – Vehicle/ Heavy Equipment Safety Inspection Checklist [OF-296]).

If the resource does not pass inspection at the incident or designated inspection point, it is considered non-compliant. The Contractor may be given 24 hours, or a timeframe designated by incident officials to bring the resource into compliance. If the resource does not pass inspection, no payment will be made for travel to the incident or point of inspection or return to the point of hire, or for the time that the resource was not available. Upon rejection, resource will be removed from the geographic resource list until such time that the resource is brought into compliance and re-inspected at the State's convenience. Repeated failures at the pre-use incident inspection may be grounds for cancellation of the Agreement. The Contractor shall not have any claims or payments due for equipment rejected or for not meeting the specifications/requirements contained herein.

If a reassignment is to occur, a post-use inspection by the sending incident as well as a pre-use inspection by the receiving incident must be completed and documented on the Vehicle/Heavy Equipment Safety Inspection Checklist (OF-296).

3.4.3 Inspection Documentation

- All vehicles shall have a pre- and post-use inspection checklist (OF-296).
- A copy of the pre-use inspection checklist will be given to the Contractor at the time of inspection.
- A copy of the post-use inspection checklist will be given to the Contractor at the time of release.
- Original pre- and post-use inspection checklist should be submitted to the incident Finance Section.
- A new inspection checklist shall be completed for re-assignments.

At time of inspection each vehicle will contain:

- a copy of the Agreement
- current vehicle registration
- proof of insurance
- an inventory of vehicle complement

3.5 RELEASE The Incident Commander will determine the priority of demobilization. When released from the incident, the Contractor shall contact the Host Dispatch Center and report arrival time back to point of dispatch. All new assignments, including reassignments, shall come directly from the Host Dispatch Center. Contractors shall not seek out assignments from any other source. **Resource orders are incident specific. The Contractor's equipment cannot mobilize to an incident without a resource order for that incident.**

3.6 PROPERTY Accountable and durable property will not be loaned or exchanged at the incident. The Contractor shall arrive at the incident fully outfitted and prepared to perform under the terms of the Agreement. If the resource, upon arrival at the incident or during the incident does not have the required equipment or personal protective equipment, it will be considered noncompliant. The Contractor may be given 24 hours, or a timeframe designated by an incident official to bring the resource into compliance.

The Contractor will be charged for consumable goods supplied by the incident and used by the resource while under hire. The cost of all consumable goods, except for those specifically listed below, shall be deducted from payment to the Contractor.

If available, the State may provide the following incident consumable goods at no cost: one-quart plastic canteens, plastic sheeting, replacement radio and headlamp batteries, and replacement meals ready to eat (MRE).

4. SPECIAL TERMS AND CONDITIONS

4.1 TERMINATION FOR CAUSE The State may, by written notice to the Contractor, terminate this Agreement in whole or in part at any time the Contractor fails to perform under this Agreement. If the Contractor fails to meet specifications the Contractor may be removed from the resource list.

4.1.1 The Agreement may be terminated by the State of Montana at its sole discretion, for any reason or no reason, upon 30-days written notice to the Contractor.

4.1.2 The State of Montana may terminate the Agreement immediately, or upon such conditions as are contained in a written notice if the Contractor is in breach of the Agreement or in default of the Agreement.

4.2 WORKMANSHIP All work under this Agreement shall be performed in a safe manner and to a professional standard. The goal of performance under this Agreement is the fire suppression, severity, and other all-risk incidents. The Incident Commander may release from an incident assignment any Contractor employee deemed incompetent, careless, or otherwise objectionable including violation of *DNRC EERA General Clause 9.1 – Incident Behavior* and *Clause 9.2 Harassment Free Workplace*. It will be left to the discretion of the Incident Commander to demobilize an entire resource or to allow replacement of the noncompliant personnel. Documentation of the rationale for release will be provided to the DNRC Contracting Officer subsequent to the action. Accordingly, the DNRC Contracting Officer may require, in writing that the Contractor remove from use under this Agreement, any employee found incompetent, careless, or otherwise objectionable including violation of *Clause 9.1 – Incident Behavior* and *Clause 9.2 Harassment Free Workplace*. The DNRC Contracting Officer may require other proof of mitigation. Misconduct may result in the suspension or cancellation of this Agreement. If an employee or crew is terminated, quits, or otherwise is released from the incident for any reason, the Contractor is responsible for returning the employee(s) to the point of hire. The employee's departure time from the Incident Command Post (ICP) shall be no later than 12 hours, or time specified by an incident official following such a decision. The Contractor may, at their discretion, provide such transportation, or request the Incident Management Team (IMT) to arrange for the transportation with all transportation costs deducted from the Contractor's invoice. If the Contractor's employee(s) does not depart from the incident within the specified time period, the incident has authority to transport said employee or arrange for employee's transportation and to deduct all such transportation costs from the Contractor's invoice.

4.3 PERSONNEL REQUIREMENTS

4.3.1 Personnel Requirements - Fair Labor Standards Act (FLSA)

Contractors shall comply with the *Fair Labor Standards Act* when employing persons less than 18 years of age (Ref. 29 CFR 570). See website:

<http://www.dol.gov/whd/regs/statutes/FairLaborStandAct.pdf>.

4.3.2 English Speaking Requirement Communications between Contractor crew personnel and incident personnel is mandatory for safe and effective performance. The Contractor's representatives shall be able to proficiently communicate in English, in the language of the crew, and read and communicate the Incident Action Plan, safety alerts, etc. All radio communication on State-assigned frequencies shall be in English.

4.3.3 Incident Behavior It is extremely important that inappropriate behavior be recognized and dealt with promptly. Inappropriate behavior is all forms of harassment including sexual and racial harassment. HARASSMENT IN ANY FORM WILL NOT BE TOLERATED. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Inappropriate conduct constitutes sexual harassment when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; and/or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment (*see Clause 9.1 – Incident Behavior* and *Clause 9.2 Harassment Free Workplace*).

4.3.4 Drug/Alcohol Non-prescription and federally unlawful drugs and alcohol are not permitted at the incident. Possession or use of these substances will result in the Contractor being released from the incident. During off-incident periods, personnel are responsible for proper conduct and maintenance of fitness for duty. Drug or alcohol abuse resulting in unfitness for duty will normally result in the Contractor being released from the incident and potential suspension of their contract.

4.3.5 Compliance with Workers' Compensation Act Contractors are required to comply with the provisions of the Workers' Compensation Acts or applicable laws of each state while performing work within the respective state. Compliance must be in accordance with the *Idaho Administrative Codes*, the *North Dakota Administrative Codes*, and the *Montana Code Annotated (MCA) § 39-71-401, 39-71-405, and 39-71-417*. Proof of compliance must be in the form of documentation of current and valid workers' compensation insurance; an Independent Contractor Exemption; documentation of corporate officer status; as well as documentation that neither the Contractor nor its employees are employees of the State. This insurance/exemption must be valid for the entire term of the Agreement.

4.3.6 First Aid/Emergency Evacuation/Accidents The Contractor is financially responsible for medical coverage of employee accidents and illness. The incident will provide first aid, but any costs associated with further medical treatment will be the responsibility of the Contractor. If Contractor personnel are injured, the incident, at the Contractor's expense, may evacuate the injured person(s). If Contractor personnel become ill or are injured and required transport to a medical facility/hospital, the associated cost of the transport shall be at the Contractor's expense.

Contractor shall provide their representative with an adequate supply of appropriate insurance forms, insurance ID card(s), and other necessary documents. Such documents shall accompany the injured person(s) when a medical need arises.

4.3.7 Overnight Allowance and Meal Allowance

1. Overnight Allowance

When the incident cannot provide a campsite, and if authorized by the host unit and properly receipted and invoiced, actual lodging expenses incurred by the Contractor are reimbursable (double occupancy required, unless there is an odd number of male/female crew members, then single occupancy may be authorized).

While in travel status to or from incidents, actual lodging expenses are reimbursable with receipts, up to the current standard Continental United States (CONUS) rate. The maximum allowable lodging rate per room is allowed, excluding taxes, and shall not exceed the current standard CONUS lodging rate. Any associated lodging taxes are reimbursable as documented on the lodging invoice.

2. Meal Allowance

When no food and drink is provided by the incident, an allowance equal to the current standard CONUS per diem meal rate per person per day may be paid. Meal allowance is paid while in travel status, after the first day of travel.

When subsistence at incident camps is available, meals for Contractor's personnel will be furnished without charge. The incident will furnish meals without cost if restaurant meals are the approved method of subsistence for incident personnel.

The host unit, during demobilization and/or reassignment, may provide sack lunches to Contractor personnel without charging the Contractor.

4.4 SAFETY STANDARDS

4.4.1 Contractor Requirements The Contractor shall ensure that each person employed under this Agreement shall meet the following minimum requirements:

- a. All personnel shall annually complete Fireline Safety Refresher Training (RT-130) and the Work Capacity Fitness Test (WCFT) at the arduous level.

- b. All operators shall operate the equipment safely and within the manufacturer's specifications.

4.4.2 Work/Rest and Length of Assignment Guidelines Information on current work/rest guidelines, length of assignment, days off, and other fire business management information can be found in Chapter 10 of the *Standards for Interagency Incident Business Management handbook (SIIBM)*.

4.4.3 Emergency Incident Driving Contractor shall follow the driving regulations listed in the SIIBM (PMS 902). The SIIBM can be found on the *Northern Rockies Coordinating Group's* website using the following link: https://gacc.nifc.gov/nrcc/nrcg/committees/business_committee.htm The Contractor is responsible for complying with all other current federal, state, and local driving regulations and must adhere to ICP or camp speed limits as posted.

4.4.4 COVID-19

- If there is a case of COVID 19 while on a fire assignment, the Incident Management Team will coordinate with the local County Health Department and their guidelines will be followed.
- When feasible, resources assigned to an incident who require isolation should be released and returned to their home at the earliest convenience. These decisions will be made in coordination with public health guidance and CDC guidelines.
- Contractor is responsible for any sanitizing products needed and will follow any mitigation efforts enacted by the team. The Contractor should disinfect all vehicles before or after each use.

4.5 PERFORMANCE EVALUATIONS Performance evaluations will be completed at the incident by the incident representatives supervising the work (*see Attachment D – Standard Contractor Performance Report*). The incident supervisor's signature is required, and the incident supervisor's name shall be legible and printed on the form. If the supervising incident representative is released from the incident prior to the release of the resource, an incident official will complete a performance evaluation prior to demobilization. The supervising incident representative will review the performance evaluation with the Contractor, record Contractor comments, and obtain the Contractor's signature acknowledging completion of the evaluation. The incident representative will then give a copy of the evaluation to the Contractor at the incident and submit a copy to the Finance Section for distribution to the Contracting Office and the Host Unit incident file. Evaluations will be sent to the following address:

DNRC Forestry Division Office
Fire Contracting: Lindsey Greene
2705 Spurgin Rd
Missoula, MT 59804

5. SPECIFICATIONS AND PRICING

5.1 RATES Payment will be at the rate of \$46.75 per hour per person. The rate shall include, but is not limited to, all labor costs, insurance coverages, non-compensable transportation costs, and required PPE, firefighting tools, equipment, and supplies.

5.1.1 Briefings Only the Crew Boss (T2-IA or T2 Crew) is required to attend operational period briefings, and therefore, is entitled to payment for this time. If the Incident Commander (IC) or his/her designated official request the entire crew be present during briefings, the IC or designee must document the request on a General Message form (or other official form of documentation). This official documentation of the request must be submitted with the payment package.

If hired as a Suppression Module, the entire crew of 8-10 crew members may attend briefings without documentation from the IC or other incident personnel.

5.2 EQUIPMENT Contractor must ensure that each Type 2 Crew or Suppression Module arrives with the following required equipment:

- Personal Protective Equipment (PPE) (see Section 5.2.1 Personal Protective Equipment)
- New Generation fire shelters
- 4 programmable radios (T2-IA, T2 Crew)
- 2 programmable radios (Suppression Module)
- Crew first aid kit (one 10-person kit per Suppression Module and two 10-person kits per crew)
- One quart canteen
- Web gear
- Sleeping bag
- Line pack

5.2.1 Personal Protective Equipment Contractor shall ensure all crew members arrive at the incident with the proper PPE, including PPE for eyes, ears, head, and extremities. All PPE shall be operable and maintained in good repair and be cleaned at sufficient intervals to preclude unsafe working conditions. Defective or damaged PPE shall not be used.

- Boots - Each crew member must wear foot protection that provides adequate traction and ankle support. Boots shall be leather, lace-up type, minimum of 8" high with lug type sole in good condition (steel toed boots are not acceptable).
- Helmet - Each crew member must wear a helmet that is NFPA 1977 compliant, or equivalent hardhat meeting ANZI Z89.1-2003 Type 1, Class G or ANSI Z89.1-2009 Type 1, Class G.
- Gloves - One pair of heavy-duty leather work gloves per person.
- Eye Protection - One pair per person.
- Headlamp – One per person, with batteries and attachment for mounting to hardhat.
- Hearing Protection – For use when sound levels exceed 85 dB, i.e., during chainsaw operation.
- Canteen - At least one quart-size per person required; two per person is recommended.
- Fire Shelter – New Generation (M-2002), one per person.
- Flame Resistant Clothing (shirt and pants) - A minimum of 2 full sets of flame-resistant shirt and pants for each crew member.
- Chainsaw Chaps – All chainsaw operators must wear chainsaw chaps meeting the current requirements of NFPA 1977.

5.2.2 Chainsaw Operators and Equipment Use of chainsaws by the crew under this Agreement is optional. Each crew member authorized as a chainsaw operator shall have completed NWCG S-212, the Faller 3 position task book, and be CPR/First Aid certified. Crew members operating chainsaws must wear chainsaw chaps and all other required PPE. Chainsaws may be used for fireline construction, mop-up, or clearing access routes and emergency escape routes, or safety zones. Crew members shall not perform as hazardous tree fallers.

5.2.3 Programmable Radio Contractor shall supply multi-channel programmable hand-held radios with one programming or cloning cable and software to facilitate communications between other incident personnel. At least 2 fully charged battery packs per radio are required at the beginning of

each shift. Contractor supplied batteries must operate the portable radio through the shift. Frequencies will be installed by incident officials and frequencies will be removed prior to demobilization from the incident. Contractor shall not use incident assigned frequencies for other than performance under this contract.

Contractor shall supply a minimum of 4 radios for each Type 2-IA or Type 2 Crew, and a minimum of 2 radios for each Suppression Module.

5.3 CREW/MODULE AND IA REQUIREMENTS Crew members must meet all other minimum requirements listed in the table below. All crew personnel must be trained and qualified and their training records maintained in accordance with the National Wildfire Coordinating Group (NWCG) Wildland Fire Qualification System Guide PMS 310-1. Crew/Module leadership will be supervised by a State employee while on an incident.

Contractor shall ensure that all crew personnel supplied meet all applicable requirements while providing services under this Agreement. The training and experience records of all firefighters promoting to supervisory positions (CRWB and FFT1), must show on the Red Card.

The Crews and Modules operating under this Agreement will be restricted to the Northern Rockies Geographical Area when the NRGPA planning level is 3 or greater (Contracting Officer could make an exception if fire activity is low). **Contractor must get approval to mobilize out of the GACC from the Contracting Officer prior to accepting an assignment.**

All crew members provided by Contractor under this Agreement must be at least 18 years of age.

Contractor shall provide properly trained Type 2 crews, consisting of not less than 18 or no more than 20 persons. If the crew strength falls below 18, the crew will be released. The State prefers a 20-person crew but may at times require only a module. A Type 2 crew cannot be broken into modules after it is dispatched as a crew.

All crews and modules must meet the NWCG 310-1 training standards for position and annual firefighting safety refresher (RT-130) and pass the WCFT at the arduous level.

5.3.1 Type 2-IA Crew Requirements An IA crew must consist of 18 to 20 people (1 CRWB, 3 FFT1) and must meet the standards of the 310-1 and the Interagency Standard for Fire and Aviation Operations (Red Book).

5.3.2 Type 2 Crew Requirements A Type 2 crew must consist of 18 to 20 people (1 CRWB, 3 ICT5, and 3 sawyers) and must meet the standards of the 310-1 and the Interagency Standard for Fire and Aviation Operations (Red Book).

5.3.3 Suppression Module Requirements A Suppression Module must consist of 8 to 10 people and have at least 1 CRWB and 2 FFT1 (Squad Boss) and personnel must meet the standards of the 310-1.

5.3.4 Timekeeping The Crew Boss daily on-shift time will start at Briefing and end within 30 minutes of return to camp after completing the shift. Remaining crew time will not start until after Briefing and will end upon return to camp after completing the shift. The Crew Time Report (CTR) will indicate a standard 30-minute meal break for the entire crew for each shift worked. Meal breaks may be compensable when the situation is such that the fire is not controlled, and no time is taken for a meal break. This exception to the standard must be approved by the supervising incident official and documented in the remarks section of the CTR.

CREW/MODULE REQUIREMENTS

Standard	Minimum Requirement
TYPE 2-IA CREW	
Leadership Qualifications Crew	1 CRWB and 3 ICT5
Crew Experience	At least 60% of the crew must have one season or more experience
Crew Size	18 - 20 Persons
Communications	4 programmable radios
Sawyers	3 qualified sawyers
TYPE 2 CREW	
Leadership Qualifications Crew	1 CRWB and 3 FFT1
Fireline Capability	Type 2 Crew cannot be broken into modules after it is dispatched as a Crew
Crew Experience	At least 20% of the crew must have one season or more experience
Crew Size	18 - 20 Persons
Communications	4 programmable radios
Sawyers	None required
SUPPRESSION MODULE	
Leadership Qualifications Module	1 CRWB and 2 FFT1 (Squad Boss) per Module
Module Size	8 - 10 Persons
Communications	2 programmable radios

5.4 TRANSPORTATION

Water handling apparatus is not allowed to be used as transportation.

Equipment furnished under this Agreement may be operated and subjected to extreme environmental and/or strenuous operating conditions which could include but is not limited to unimproved roads, steep, rocky, hilly terrain, dust, heat, and smoky conditions. As a result, by entering into this Agreement, the Contractor agrees that what is considered wear and tear under this Agreement exceeds what the resource is subjected to under normal operations and is reflected in the rates paid for the resource.

5.4.1 Vehicle, Privately Owned The Contractor shall provide vehicles for ground transportation that meet all applicable state and federal laws relating to motor vehicles. Load Range E tires are recommended for vehicles that may be used in an off-road capacity. Contractors must assure their insurance coverage includes commercial liability coverage sufficient to comply with Agreement requirements. Proof of insurance coverage is required upon execution of the Agreement. The

Contractor assumes responsibility for all damage or injury to persons or property. The Contractor shall maintain adequate commercial liability and property damage insurance. The Contractor shall maintain workers' compensation and other legally required insurance.

Contractor is responsible for providing all fuel, oil, and maintenance, and must maintain the vehicles in good repair. Vehicles that become inoperable may be towed at the Contractor's expense.

5.4.2 Driver Requirements All drivers must possess a current driver's license, medical card, and DOT physical if required based on size of vehicle driven.

5.5 VERIFICATION REQUIREMENTS IS-700.B "An Introduction to the National Incident Management System (NIMS)" is required for all Contractor resources to be considered qualified in any firefighting position (refer to PMS 310-1). IS-700.B is available at the following web site:

<http://training.fema.gov/nims/>. The Contractor is required to maintain a complete record of each employee's training and experience received.

All Type 2 Crew members must be verified by a NRCG MOU holder for position qualification (CRWB, FFT1, and FFT2) and currency (completion of the annual safety refresher and WCFT). Contractor shall ensure that all crew members have passed the WCFT at the arduous level of fitness based upon the "pack test", as specified in "Work Capacity Test Administrator's Guide" (PMS 307, NFES 1109).

The verification must be carried with the crew and a copy submitted to DNRC Forestry Division Office, Attn: Fire Contracting, Lindsey Greene, 2705 Spurgin Road, Missoula, MT 59804, or emailed to lgreene@mt.gov.

The incident Finance Section will work in tandem with Logistics to ensure work/rest requirements are adhered to. Working more than 16 hours per day violates the 2:1 work/rest safety guidelines and shall be mitigated. When working an average of more than 16 hours, for the duration of the incident, a Contractor may request to negotiate an equitable adjustment through the Procurement Unit Leader or Contracting Officer. Shifts exceeding 16 hours must be approved by the Incident Commander.

The Contractor shall prepare a crew manifest at time of dispatch. Contractor shall send a copy of the crew manifest and resource order at time of dispatch to the Fire Contracting Representative. The Contractor shall notify the Fire Contracting Representative of any changes made in the crew manifest. A copy of the manifest should always be carried by the crew.

Contractor will compile a list of verified employees, by position for which they are verified, and send a copy of the list to the Fire Contracting Representative at the time of Agreement execution. Contractor will update the list of verified employees as necessary and send updated list to the Fire Contracting Representative.

5.6 PAYMENTS Payment will be made based on calendar days (0001-2400). The Host Agency for each incident is responsible for processing the payment package and submitting it to the payment office.

Time under hire shall start at the time the resource begins traveling (from point of hire) to the incident after being ordered. Time will end at the estimated time of arrival back to the point of hire after being released.

5.7 TIMEKEEPING/INVOICING PROCESS After each operational period worked, time will be legibly recorded on a CTR and verified and approved by the incident representative supervising the work. It is the responsibility of the Contractor to assure delivery of the completed CTRs to the Finance Section for time posting each day.

When the resource is released from the incident, the Finance Section will close out the Emergency Equipment Use Invoice (OF-286) and provide a copy to the Contractor during the demobilization process.

The incident will submit a payment package, including all signed originals of the Emergency Equipment Use Invoice (OF-286), CTRs, inspection forms, and a copy of the resource order to the designated payment office.

5.7.1 Payment Terms The State of Montana has thirty (30) days to pay invoices from date of receipt, as allowed by 17-8-242, MCA. Contractor shall provide banking information at the time of Agreement execution to facilitate the State's electronic funds transfer payments.

5.7.2 Statusing of Crews Contractor **shall only** call Dispatchers to status crews as available. Contractor **shall not** call Dispatchers to obtain information regarding current or projected fire activity or needs, or to inquire when or if a Contractor will be called for an assignment.

6. HOLD HARMLESS/INDEMNIFICATION

Claims under this provision also include any claim arising out of or in any way connected with Contractor's breach of this contract, including any claims asserting that any of the Contractor's employees are actually employees of the State or common law employees of the State or any of its agencies or political subdivisions, including but not limited to excise taxes or penalties imposed on the State under Internal Revenue Code §§ 4980H, 6055 or 6056 and any subsequent amendments or additions to these Sections. Contractor shall be responsible for implementation of all aspects of the Affordable Care Act as this Act may apply to the Contractor and shall be responsible for any violations including any sanction, penalty, fee, or tax and shall indemnify the State and hold harmless and defend the State for any omission or failure of Contractor to meet its obligations under this Agreement.

7. REQUIRED INSURANCE

Proof of Commercial General Liability, Automobile Liability, and Workers' Compensation Insurance, VIN #'s for each piece of applicable equipment (pickup), and a W-9 (*see Attachment I – Taxpayer Identification Request [W-9]*) are all required under this Agreement. Proof of insurance certificates should have the State listed as the certificate holder and as an additional insured.

7.1 GENERAL REQUIREMENTS Contractor shall maintain for the duration of this contract, at its cost and expense, insurance against claims for injuries to persons or damages to property, including contractual liability, which may arise from or in connection with the performance of the work by Contractor, agents, employees, representatives, assigns, or subcontractors. This insurance shall cover such claims as may be caused by any negligent act or omission.

7.2 PRIMARY INSURANCE Contractor's insurance coverage shall be primary insurance with respect to the State, its officers, officials, employees, and volunteers and shall apply separately to each project or location. Any insurance or self-insurance maintained by the State, its officers, officials, employees, or volunteers shall be in excess of Contractor's insurance and shall not contribute with it.

7.3 SPECIFIC REQUIREMENTS FOR COMMERCIAL GENERAL LIABILITY Contractor shall purchase and maintain occurrence coverage with combined single limits for bodily injury, personal injury, and property damage of \$2,000,000 per occurrence and \$2,000,000 aggregate per year to cover such claims as may be caused by any act, omission, or negligence of Contractor or its officers, agents, representatives, assigns, or subcontractors.

The State, its officers, officials, employees, and volunteers are to be covered and listed as additional insureds for liability arising out of activities performed by or on behalf of Contractor, including the

insured's general supervision of Contractor, products, and completed operations, and the premises owned, leased, occupied, or used.

7.4 CERTIFICATE OF INSURANCE/ENDORSEMENTS A certificate of insurance from an insurer with a Best's rating of no less than A- indicating compliance with the required coverage's, must be received by the Forestry Division Office, 2705 Spurgin Road, Missoula, MT 59804.

Contractor must notify the State immediately of any material change in insurance coverage, including but not limited to changes in limits, coverages, and status of policy. The Contractor must provide the State with copies of insurance policies upon request.

8. COMPLIANCE WITH LAWS

8.1 FEDERAL, STATE, OR LOCAL LAWS, RULES, AND REGULATIONS Contractor shall, in performance of work under this contract, fully comply with all applicable federal, state, or local laws, rules, and regulations, including but not limited to, the Montana Human Rights Act, the Civil Rights Act of 1964, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. The State may audit or request from Contractor at any time a statement that it is fully compliant with all requirements of this Section.

8.2 CONTRACTOR AS EMPLOYER UNDER THE PATIENT PROTECTION AND AFFORDABLE CARE ACT AND THIS AGREEMENT The Contractor is the employer for the purpose of providing healthcare benefits and paying any applicable penalties, fees and taxes under the Patient Protection and Affordable Care Act [Pl. 111-148, 124 Stat. 119]. Contractor represents and warrants that all individuals who perform services for an agency of the State for Contractor under this Agreement are without exception Contractor's common law employees at all times and that Contractor acknowledges that Contractor has the responsibility and retains the obligation to direct and control its employees providing services under this Contract for the term of this Agreement. Contractor is responsible for providing healthcare benefits for its employees under the Patient Protection and Affordable Care Act.

8.2.1 State Benefits Plans Contractor acknowledges and agrees that it, its agents, or employees are not employees of the State and that its agents or employees have no nexus with the State to participate in any of the State's benefits plans or programs that the State offers its employees and maintains for its employees.

8.2.2 Contractor Provided Health Care Coverage Contractor shall, if required by the Patient Protection and Affordable Care Act, offer to all its agents or employees who perform services for the State under this contract for 30 or more hours a week and for employee's or agent's dependents under age 26 health care coverage under its health care plans. Such coverage must provide minimum essential coverage and minimum value and be affordable for purposes of the employer responsibility provisions under Section 4980H of the Code and otherwise satisfy the requirements of Code 4980H if provided by the State. It shall be Contractor's sole responsibility to determine applicability and compliance requirements that may apply to Contractor under the Patient Protection and Affordable Care Act.

8.2.3 Contractor Reporting Requirements Contractor acknowledges that if it is subject to any reporting requirements under Code §§ 6055 and 6066 that Contractor will fully comply with any required reporting with respect to individuals who perform services for the State.

8.2.4 Nondiscrimination In accordance with 49-3-207, MCA, Contractor agrees that the hiring of persons to perform this contract will be made on the basis of merit and qualifications and there will

be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin of the persons performing this contract.

9. REGISTRATION WITH THE SECRETARY OF STATE

Any business intending to transact business in Montana must register with the Secretary of State. Businesses that are incorporated in another state or country, but which are conducting activity in Montana, must determine whether they are transacting business in Montana in accordance with *35-1-1026* and *35-8-1001, MCA*. Such businesses may want to obtain the guidance of their attorney or accountant to determine whether their activity is considered transacting business.

If businesses determine that they are transacting business in Montana, they must register with the Secretary of State and obtain a certificate of authority to demonstrate that they are in good standing in Montana. To obtain registration materials, call the Office of the Secretary of State at (406) 444-3665, or visit their website at <http://sos.mt.gov>.

10. SEVERABILITY CLAUSE

A declaration by any court or any other binding legal source that any provision of the contract is illegal, and void shall not affect the legality and enforceability of any other provision of the contract, unless the provisions are mutually and materially dependent.

11. SCOPE, ENTIRE AGREEMENT, AND AMENDMENT

11.1 AGREEMENT This Agreement consists of 16 numbered pages, plus attachments, and Contractor's response, as amended. In the case of a dispute or ambiguity arising between or among the documents, the order of precedence of document interpretation is the same.

11.2 ENTIRE AGREEMENT These documents are the entire Agreement of the parties. They supersede all prior agreements, representations, and understandings. Any amendment or modification must be in a written agreement signed by all the parties.

12. WAIVER

The State's waiver of any Contractor obligation or responsibility in a specific situation is not a waiver in a future similar situation or is not a waiver of any other Contractor obligation or responsibility.

TYPE 2 FIRELINE CREW/SUPPRESSION MODULE AGREEMENT

ATTACHMENTS

- A. Sample Emergency Equipment Rental Agreement (EERA)
- B. DNRC General Clauses to the EERA (OF-294)
- C. Standard Terms & Conditions
- D. Standard Contractor Performance Report
- E. Agency Contact Information/Payment Offices
- F. Vehicle/Heavy Equipment Pre-Use Inspection Checklist (OF-296)
- G. Hand Crew Inspection Form
- H. Hand Crew Manifest Form
- I. Taxpayer Identification Request (W-9)
- J. State of Montana Electronic Funds Transfer Sign Up (204)

Date

Contractor's Authorized Representative

Date

Department of Natural Resources and Conservation