Contractor: Pierce Manufacturing Inc.
Master Agreement #: 8200060944

Participating Entity: State of Oregon
Participating Addendum # Master Blanket Purchase Order PO-10700-00005584
Additional Terms Attached: Exhibits No. 1 through No. 4

Primary Contacts

	Participating Entity	Contractor
Name:	Brent Lutz	Summer Munao
Address:	1225 Ferry St. SE Salem, OR 97302	2600 American Drive Appleton, WI 59414
Telephone:	971-719-3436	920.832.3595
Email:	Brent.l.lutz@das.oregon.gov	smunao@piercemfg.com

The State of Oregon ("Participating Entity") acting by and through the Department of Administrative Services, Procurement Services ("DAS PS") and Contractor agree that this Participating Addendum ("PA") incorporates all terms, conditions, and requirements of the Master Agreement that apply to a Participating Entity, except as specifically modified pursuant to Paragraph 3, below. DAS PS and Contractor may be referred to as "Party" or "Parties".

1. **Participation:** This PA may be used by the Participating Entity and all entities authorized by state statutes and other laws and regulations to utilize Participating Entity's contracts, or as otherwise authorized in writing by the Participating Entity's chief procurement officer ("Purchasing Entities"). Purchasing Entities are intended beneficiaries of this PA.

2. **Term:** This PA shall become effective upon execution and shall remain in place until expiration or termination of the Master Agreement (including extensions and renewals thereof), unless terminated earlier in accordance with the terms of this PA and the Master Agreement.

3. **Modifications:** Any additions or modifications to the Master Agreement that have been negotiated and agreed to by the Parties are outlined in Exhibits No. 1 through No. 4 to this PA and shall have no effect on the Master Agreement as it applies to other Participating Entities.

4. **Approval:** DAS PS certifies that it has obtained all necessary approvals required by the Master Agreement and has the authority to enter into this agreement.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

PARTICIPATING ENTITY **CONTRACTOR**

Signature: The State of Oregon, acting by and through the Department of Administrative Services, Procurement Services	Signature: Pierce Manufacturing Inc.
Name: Digitally signed by Sandy Clavet Connolly Date: 2022.05.31 13:06:52 -07'00'	Name: Jeff Trelka
Title: Interim Procurement Services Manager	Title: Vice President, Finance
Date: 5/31/22	Date: 5/31/2022

LEGAL APPROVAL:

Pursuant to ORS 291.047, this Addendum was reviewed and approved by Oregon Department of Justice Assistant Attorney General, Karen Johnson by email dated May 31, 2022.

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at info@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.

Exhibit No. 1 – State Specific Terms and Conditions

1. **Definitions.** The following terms have the meanings set forth below. Capitalized terms not defined in this PA have the meaning ascribed to them in the Master Agreement and its exhibits.

   "Purchasing Entity" means an agency of the State of Oregon or any ORCPP member that submits a Purchase Order to Contractor.

   "ORCPP" means the Oregon Cooperative Purchasing Program Members, which recognizes certain agencies and organizations within the State of Oregon as authorized to purchase the goods and services available under a price agreement entered into by the State.

   "Master Agreement" means the State of Mississippi Master Agreement No: 8200060944 between Contractor and the State of Mississippi, on behalf of the member states of the National Association of State Procurement Officials and the NASPO ValuePoint, and its Appendix(s), which together with this PA sets forth terms, conditions and requirements for purchase by Purchasing Entity of the goods and services described therein.

   "Purchase Order" or "PO" means the purchase order document / order document submitted to Contractor by a Purchasing Entity that incorporates this PA by reference and specifies the quantity and type of goods or services that Contractor will provide to the Purchasing Entity under the terms of the Master Agreement and this PA.

   "State", for the purposes of this PA, means the State of Oregon.

2. **Scope and Order of Precedence.** This PA covers the purchase of Fire Trucks and Fire Apparatus under Master Agreement No. 8200060944, as amended from time to time ("Master Agreement") led by the State of Mississippi for use by state agencies and other entities located in the Participating State as authorized by the Participating State's statutes to utilize state contracts with the prior approval of the state's chief procurement official.

   This PA establishes an agreement to agree between Contractor and DAS PS pursuant to ORS 279B.140. The equipment and services offered under the Master Agreement that are available under this PA are described in the Master Agreement. This PA consists of the following documents, which are incorporated herein as part of this PA, and in the event of a conflict between the terms and conditions of this PA, the Master Agreement, POs and the other documents, the conflict will be resolved in the following descending order of precedence applies:

   1) Applicable Federal Terms and Conditions attached to PO
   2) this Exhibit No. 1 - State Specific Terms and Conditions
   3) Exhibit No. 2 - Insurance
   4) Exhibit No. 3 – Contractor Tax Certification
   5) Master Agreement Number 8200060944 and all Appendices between the State of Mississippi, and Contractor, as amended from time to time, and
   6) Exhibit No. 4 - Form of Purchase Order
   7) Any terms and conditions, specifications, or other documents published by Contractor on or after the Effective Date of this PA or any terms presented to an end user in a 'click wrap' or similar end user agreement.

3. **Selection Process.** This is not an exclusive agreement. DAS PS awarded multiple Participating Addenda for the equipment and services offered under this PA. Purchasing Entities that are State

of Oregon Agencies must follow the selection process outlined below. Purchasing Entities that are **not** State of Oregon Agencies may select the Contractor of Purchasing Entity's choice in compliance with applicable statute and rules.

3.1. For purchases under $10,000, a Purchasing Entity that is a State Agency may select the Contractor of its choice in compliance with applicable statute and rule.

3.2. For purchases over $10,000, Purchasing Entities that are State Agencies shall use one of the following selection processes:

3.2.1. Sole Source/Brand Name Justification - A documented sole source or brand name justification in compliance with applicable statute and rule.

<u>OR</u>

3.2.2. Best Value Analysis - Purchasing Entity shall conduct a comparison of the offers based upon a best value analysis. Purchasing Entity shall:

a) Determine category of need (Pumpers, Aerials, Wildland, Tanker Rescue, Rescue and Aircraft Rescue and Fire Fighting (ARFF)), if more than 3 Contractors offer products in category of need, contact at least 3 PA Contractors and request a quote for the anticipated equipment and services. If 3 or less Contractors offer products in category of need, contact all PA Contractors that provide products in category of need and request a quote for anticipated equipment and services. Quoted rates must not exceed the most competitive rates and discounts set forth in the Master Agreement and PA. However, a Contractor may agree to extend specialized, discounted pricing based on the requirements by providing a specific quote to the Purchasing Entity.

b) Determine which Contractor provides the best value for Purchasing Entity. Some or all of the following factors may be used in the Purchasing Entity's determination of best value (additional factors not listed may also be used):

- Applicable preferences
- Applicable discounts and incremental pricing options;
- Shipping costs;
- Delivery process and service levels;
- Installation, maintenance and repair service levels;
- Applicable warranties;
- Contractor's past performance record through reference checks;
- Price comparison of the current market value of equipment and services similar to the Equipment and Services;
- Cost analysis through an element-by-element examination of the estimated or actual cost of proposed goods to determine whether the supplier's costs are in line with what reasonably economical and efficient performance should cost. Some of the cost elements examined for necessity and reasonableness are materials' costs, labor costs, equipment and overhead;
- Comparison of pricing to MSRP;
- Market conditions and competition levels;
- General economic conditions;
- Life cycle costing including expected life, salvage value and discounted total cost of ownership.

c) Document its procurement files describing the process, considerations, findings, and decisions used for determining the Contractor selected through the Best Value Analysis.

4. **Subcontractors.** All Contractor dealers and resellers authorized for the West Region, as identified on Appendix C of the Master Agreement, or listed on the NASPO ValuePoint website, are approved to provide sales and service support including receiving orders, billing, and receiving payment from authorized Purchasing Entities. Subcontractor participation will be in accordance with the terms and conditions set forth in the Master Agreement and this Participating Addenda.

5. **Tax Compliance.**

5.1. As set forth on Exhibit No. 3, Contractor has complied with the tax laws of this State and the applicable tax laws of any political subdivision of this State. Contractor shall, throughout the duration of this PA and any extensions, comply with all tax laws of this State and all applicable tax laws of any political subdivision of this State. For the purposes of this Section, "tax laws" includes:

a) All tax laws of this State, including but not limited to ORS 305.380(4), ORS 305.620 and ORS chapters 316, 317, 318 and 319;
b) Any tax provisions imposed by a political subdivision of this State that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;
c) Any tax provisions imposed by a political subdivision of this State that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and
d) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

5.2. Any violation of this Section 5 constitutes a material breach of this PA and any contract issued under this PA. Further, any violation of Contractor's warranty set forth in Exhibit No. 3 also shall constitute a material breach of this PA and any PO issued under this PA. Any violation shall entitle DAS PS or Purchasing Entity to pursue any or all of the remedies available under this PA, a PO, at law, or in equity, including but not limited to:

a) Termination of this PA or the applicable PO, in whole or in part;
b) Exercise of the right of setoff, and withholding of amounts otherwise due and owing to Contractor, in an amount equal to Purchasing Entity's setoff right, without penalty; and
c) Initiation of an action or proceeding for damages, specific performance, declaratory or injunctive relief. DAS PS or Purchasing Entity may recover any and all damages suffered as the result of Contractor's breach of this PA or the applicable PO, including but not limited to direct, indirect, incidental and consequential damages, costs of cure, and costs incurred in securing replacement equipment or services or both.

These remedies are cumulative to the extent the remedies are not inconsistent, and DAS PS or Purchasing Entity may pursue any remedy or remedies singly, collectively, successively, or in any order whatsoever.

6. **Participating Addendum Integration**. This PA and the Master Agreement set forth the entire agreement between Contractor and Participating State with respect to the subject matter. There are no understandings, agreements, or representations, oral or written, not specified herein. Any attempt to

modify or add or incorporate terms and conditions inconsistent with, and contrary to, the terms and conditions of this PA and the Master Agreement through a PO or other document is null and void and hereby rejected. The terms and conditions of this PA and the Master Agreement shall prevail and govern in case of any attempted modifications or inconsistent terms.

7. **Reporting.** This PA will be reported to the Oregon Department of Revenue. The Department of Revenue may take any and all actions permitted by law relative to the collection of taxes due to the State of Oregon or a political subdivision, including (i) garnishing the Contractor's compensation under this PA or any PO or (ii) exercising a right of setoff against Contractor's compensation under this PA or any PO for any amounts that may be due and unpaid to the State of Oregon or its political subdivisions for which the Department of Revenue collects debts.

8. **Purchase Orders.**

8.1. Purchase Orders. Purchasing Entities may use their own forms for Purchase Orders. State agencies may also use the general State-approved Purchase Order referencing the Master Agreement Number, substantially in the form attached hereto as Exhibit No. 4. To the extent that the terms of any form differ from the terms of this PA, the terms of this PA supersede such contrary terms. Each Purchase Order from a Purchasing Entity that is not a State agency must contain, on the front page, the following language:

THIS PURCHASE IS PLACED AGAINST THE STATE OF MISSISSPPI MASTER AGREEMENT NO. 8200060944 THE TERMS AND CONDITIONS OF THE MASTER AGREEMENT AND THE ASSOCIATED PARTICIPATING ADDENDUM ENTERED INTO BY THE STATE OF OREGON, CONTRACT NO. MBPO-10700-00005584 APPLY TO THIS PURCHASE AND SUPERSEDE ALL CONFLICTING TERMS AND CONDITIONS, EXPRESS OR IMPLIED.

8.2. Effect of Purchase Orders. The State is only liable for purchases made by State of Oregon agencies that issue POs. Other Purchasing Entities are responsible for any purchases under POs they issue. The State expressly disclaims any liability for purchases made by non-State agency Purchasing Entities or any other entity.

8.3. Verification of Purchasing Entities. Contractor shall verify that it provides equipment and services under this PA only to Purchasing Entities. Contractor may verify that a particular entity is an ORCPP member on-line at http://www.oregon.gov/das/Procurement/Pages/Orcppmember.aspx

8.4. State Agency Purchase Order Limitation. Purchasing Entities that are State of Oregon Agencies, are hereby authorized to issue PO for any value under this PA.

9. **Payment Provisions**. All payments are subject to ORS 293.462.

10. **Funds available and authorized/non-appropriation**. The State of Oregon's and its agencies' payment obligations under this PA are conditioned upon Purchasing Entity receiving funding, appropriations, limitations, allotments, or other expenditure authority sufficient to allow Purchasing Entity, in the exercise of its reasonable administrative discretion, to meet its payment obligations under any PO issued under this PA. Contractor is not entitled to receive payment under this PA or any PO from any part of Oregon state government other than Purchasing Entity. Nothing in this PA or a PO is to be construed as permitting any violation of Article XI, section 7 of the Oregon Constitution or any other law regulating liabilities or monetary obligations of the State of Oregon. Purchasing Entity represents that it has sufficient appropriations and limitation for the current biennium to make payments under any PO issued under this PA.

11. Volume Sales Reports (VSRs) / Vendor Collected Administrative Fee (VCAF).

Contractor will be required to submit Volume Sales Reports and Vendor Collected Administrative Fees.

11.1. Volume Sales Reports

Pursuant to the process defined by DAS PS found at: https://www.oregon.gov/das/Procurement/Pages/Supplier.aspx, Contractor shall submit a Volume Sales Report ("VSR") to DAS PS on a quarterly basis; the quarterly report is due no later than thirty (30) calendar days from the end of the applicable quarter.
However, Contractor is advised to be prepared to generate these reports within five days of the end of each respective quarter. This five-day requirement will not go in to effect without prior, advance notice given by DAS-PS. For purposes of this Addendum, quarters end March 31, June 30, September 30 and December 31.

The VSR must contain a basic set of required columns with data representing:

- Purchasing Entity
- Description of Good purchased
- Participating Addendum Price
- Quantity
- Total Price
- Complete and accurate details of all receipts (sales and refunds) for the reported period; and
- Such other information as DAS PS may reasonably request

Contractor is responsible for timely reporting and shall submit a VSR whether or not there are sales during the applicable reporting period. When no sales have been recorded for the reporting period, a report must be submitted stating "***No Sales for the Reporting Period***".

11.2. Vendor Collected Administrative Fee

Pursuant to the process defined by DAS PS and published at https://www.oregon.gov/das/Procurement/Pages/Supplier.aspx, Contractor shall submit a Vendor Collected Administrative Fee ("VCAF"), as directed by DAS PS. The VCAF is a charge equal to one percent (1%), not to exceed a total of $1,000 per vehicle, of Contractor's gross total sales, less any credits, made to Purchasing Entities during the reporting period.

12. Warranties. Purchasing Entities are entitled to the warranties, rights, remedies, and benefits under the Master Agreement and this PA for any purchases made by such Purchasing Entity Pursuant to POs.

13. Indemnification.

13.1. General Indemnity. Contractor will defend, save, hold harmless and indemnify the Purchasing Entity and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever resulting from, arising out of or relating to the activities of Contractor or its officers, employees, subcontractors or agents under the PA.

13.2. Infringement Indemnity. Contractor will, at Contractor's sole expense, defend, save, hold harmless and indemnify Purchasing Entities and the State of Oregon and their agencies, subdivisions, officers, employees and agents from and against any and all costs, damages, attorneys' fees, and any and all costs incurred in any settlement negotiation or final settlement agreement resulting from, relating to, or arising out of a claim that any aspect of the goods or services furnished under a PO infringes a patent, utility model, industrial design, copyright, mask work, trademark, trade dress, or any other legally cognizable intellectual property right of any third party (an "Infringement Claim").

13.3. Participation. Control of Defense and Settlement. Contractor's obligation to indemnify Purchasing Entity as set forth in Sections 13.1 and 13.2 is conditioned on Purchasing Entity providing to Contractor prompt notification of any claim or potential claim of which Purchasing Entity becomes aware that may be the subject of those Sections. Contractor shall have control of the defense and settlement of any claim that is subject to Section 13.1 or Section 13.2; however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of Oregon or any Purchasing Entity of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without the approval of the Attorney General, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

14. Remedies. If any equipment or services furnished by Contractor are, in Contractor's opinion, likely to become the subject of an Infringement Claim, or if a Purchasing Entity is prevented from exercising its rights under this PA based on any Infringement Claim or court order arising from any Infringement Claim, then Contractor may, at its option and expense, procure for the Purchasing Entity the right to continue using the allegedly infringing goods or services, or replace or modify the goods or services so that they become non-infringing; provided that the replacement or modified good or service meets the specifications set forth in the applicable PO to the satisfaction of the Purchasing Entity. If the foregoing remedies are not available, then Purchasing Entity will return the allegedly infringing goods or terminate the allegedly infringing services, and Contractor will refund Purchasing Entity's payments, in full, for the allegedly infringing equipment or services.

15. Dispute Resolution. Notwithstanding anything to the contrary in the Master Agreement, Purchasing Entities that are State Agencies may resolve disputes through mediation or other types of dispute resolution, provided, however, Purchasing Entities that are State Agencies shall not participate in arbitration of disputes nor shall Purchasing Entity that are State Agencies waive trial by jury.

16. Term and Termination of Participating Addendum.

16.1. Term. This PA remains in effect until the earlier of (a) the expiration or termination of the Master Agreement, or (b) termination of this PA in accordance with its terms.

16.2. Termination. DAS PS may terminate this PA, in whole or in part, at any time upon thirty (30) days prior notice to Contractor. In addition, DAS PS may terminate this PA, in whole or in part, immediately upon notice to Contractor, or at such later date as DAS PS may establish in such notice, for any reason, or upon the occurrence of any of the following events:

16.2.1. State fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the PA; or

16.2.2. Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under this PA is prohibited or the State is prohibited from paying for such goods from the planned funding source.

Upon receipt of written notice of termination, Contractor will stop performance under all POs as directed by State.

16.3. Termination under any provision of this PA does not extinguish or prejudice State's or a Purchasing Entity's right to enforce this PA or a PO with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of the State or a Purchasing Entity to indemnification by Contractor. If this PA or a PO is so terminated, the State or a Purchasing Entity will pay Contractor in accordance with the terms of this PA for goods delivered and accepted by the Purchasing Entity.

17. Termination of Individual Purchase Orders.

17.1. Individual POs may be terminated at any time by written consent of Purchasing Entity and Contractor or Purchasing Entity may, at its sole discretion, terminate individual POs, in whole or in part, upon 30 days written notice to Contractor.

17.2. Purchasing Entity may terminate individual POs, in whole or in part, immediately upon notice to Contractor, or at such later date as Purchasing Entity may establish in such notice, upon the occurrence of any of the following events:

17.2.1. Purchasing Entity fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for the goods to be purchased under the PO;

17.2.2. Federal or State laws, regulations or guidelines are modified or interpreted in such a way that either the purchase of goods under the PO is prohibited or Purchasing Entity is prohibited from paying for such goods from the planned funding source; or

17.2.3. Contractor commits any material breach of this PA or a PO.

17.3. Upon receipt of written notice of termination, Contractor will stop performance under the PO as directed by Purchasing Entity.

17.4. Termination of a PO does not extinguish or prejudice Purchasing Entity's right to enforce the PO with respect to Contractor's breach of any warranty or any defect in or default of Contractor's performance that has not been cured, including any right of Purchasing Entity to indemnification by Contractor. In addition, termination of a PO does not extinguish or prejudice Purchasing Entity's right to enforce the warranty, indemnification, governing law, venue and consent to jurisdiction provisions of this PA. If a PO is so terminated, Purchasing Entity will pay Contractor in accordance with the terms of this PA for goods delivered and accepted by Purchasing Entity.

17.5. Contractor may pursue remedies to recover costs and losses incurred upon termination of PO not caused by Contractor breach.

18. Compliance with Law. Contractor will comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Work under this PA or any PO, as may be adopted or modified from time to time. A State Agency Purchasing Entity's performance under a PO is conditioned on Contractor's compliance with the provisions of ORS 279B.220, 279B.235, 279B.230. and 279B.270. In addition, Contractor warrants the equipment and services provided under this PA will comply with all federal Occupational Safety and Health Administration (OSHA) requirements and with all Oregon safety and health requirements, including those of the State Workers' Compensation Division. Contractor also agrees to comply with (a) Title VI of the Civil Rights Act of 1964, (b) Section v of the Rehabilitation Act of 1973, (c) the Americans with Disabilities Act of 1990 and ORS 659.425, (d) all regulations and administrative rules established pursuant to the foregoing laws and (e) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

19. **Pay Equity.** As required by ORS 279B.235, Contractor shall comply with ORS 652.220 and shall not unlawfully discriminate against any of Contractor's employees in the payment of wages or other compensation for work of comparable character on the basis of an employee's membership in a protected class. "Protected class" means a group of persons distinguished by race, color, religion, sex, sexual orientation, national origin, marital status, veteran status, disability or age. Contractor's compliance with this section constitutes a material element of this PA and a failure to comply constitutes a breach that entitles DAS PS or Purchasing Entity to terminate this PA or a PO for cause.

20. **Application of Public Records Law.** Contractor acknowledges that any disclosures Contractor makes to Purchasing Entity under this PA are subject to application of the Oregon Public Records Law, including but not limited to ORS 192.311 – 192.478, the provisions for the Custody and Maintenance of Public Records, ORS 192.005 – 192.710, and of ORS 646.461 - 646.475. The non-disclosure of documents or of any portion of a document submitted by Contractor to Purchasing Entity may depend upon official or judicial determinations made pursuant to the foregoing laws. Contractor will be notified prior to Purchasing Entity's release of documents to Entities other tha Participating agencies or other State agencies. Contractor shall be exclusively responsible for defending Contractor's position concerning the confidentiality of the requested documents, at its own expense.

21. **Recycled Products.** Contractor will use, to the maximum extent economically feasible in the performance of this PA or any PO, recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh), and other recycled plastic resin products and recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii).

22. **Notices.** Except as otherwise provided in a PO, any formal communications between the parties to or notices to be given under a PO will be given in writing by personal delivery of the notice or mailing the notice, postage prepaid, at the address or number set forth on the PO. Any communication so addressed and mailed will be deemed to have been received five (5) calendar days after mailing. Any communication or notice by personal delivery will be deemed to be given when actually received by the appropriate authorized representative. Any communication or notice by email is deemed given when the recipient, by an email sent to the email address for the sender or by a notice given by another method, acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for purposes of this Section.

23. **Governing Law.** The laws of the State of Oregon (without giving effect to its conflicts of law principles) govern all matters arising out of or relating to this PA and resulting POs, including, without limitation, their validity, interpretation, construction, performance, and enforcement.

24. **Jurisdiction and Venue.** Any claim, action, suit or proceeding (collectively, "Claim") between State or any other agency or department of the State of Oregon, and Contractor, that arises from or relates to this PA or a PO under this PA, will be brought and conducted solely and exclusively in the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively in the United States District Court of the District of Oregon. CONTRACTOR, BY EXECUTION OF THIS PA OR ACCEPTANCE OF A PO

SUBMITTED PURSUANT TO THIS PA, HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS. Nothing in this section will be construed as a waiver of the State of Oregon's sovereign immunity with respect to any Claim, whether brought under State or Federal law, or consent to jurisdiction in State or Federal Court.

Any Claims between Contractor and a Purchasing Entity other than the State of Oregon or State agency that arise from or are related to individual POs or this PA will be brought and conducted solely and exclusively within the Circuit Court of the county in the State of Oregon in which such Purchasing Entity resides or has its principal office, or at Purchasing Entity's option, within such other county as Purchasing Entity will be entitled to proceed under the venue laws of Oregon to bring or defend Claims. If any such Claim must be brought in a federal forum, then it will be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.

25. **Foreign Contractor.** If Contractor is not domiciled in or registered to do business in the State of Oregon as of the effective date of this PA, Contractor will promptly provide to the Oregon Department of Revenue all information required by that Department relative to the PA or any Purchase Order. A Purchasing Entity may withhold final payment under a Purchase Order until Contractor has provided the Oregon Department of Revenue with the required information.

26. **Merger Clause; Waiver.** This PA, including the Master Agreement and the exhibits attached to this PA, constitutes the entire agreement between the parties on the subject matter hereof, and supersede all prior agreements, oral or written. There are no understandings, agreements, or representations, oral or written, between these parties that are not specified in this PA. No waiver, consent, modification or change of terms of this PA binds either party unless in writing and signed by both parties and all necessary State approvals have been obtained. Such waiver, consent, modification or change, if made is effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this PA does not constitute a waiver by the State of that or any other provision.

27. **Access to Records**. Contractor will maintain all fiscal records relating to POs in accordance with generally accepted accounting principles and will maintain any other records relating to POs in such a manner as to clearly document Contractor's performance thereunder. The Purchasing Entity, the State and its agencies, the Oregon Secretary of State Audits Division and their duly authorized representatives will have access to such fiscal records and to all other books, documents, papers, plans and writings of Contractor which relate to this PA to perform examination and audits and make excerpts and transcripts. To the extent provided by law, the federal government will be entitled to the same access as the State of Oregon and Purchasing Entities. Contractor will retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of seven years, or such longer period as may be required by applicable law following final payment and termination of this PA, or until the conclusion of any audit, controversy or litigation arising out of or related to this PA, whichever date is later.

28. **Insurance.** Within ten (10) days of the Effective Date, in addition to the insurance set forth in the Master Agreement, Contractor must provide insurance as set forth on Exhibit No. 2 No POs may be placed or accepted until proof is provided that these requirements have been met.

29. **Amendments**. This PA may be modified in writing once agreed to and signed by all parties.

Exhibit No. 2
INSURANCE REQUIREMENTS

INSURANCE REQUIREMENTS:
Contractor shall obtain at Contractor's expense the insurance specified in this Exhibit No. 2 prior to performing under this PA or a PO and shall maintain it in full force and at its own expense throughout the duration of this PA and all POs, as required by any extended reporting period or continuous claims made coverage requirements, and all warranty periods that apply. Contractor shall obtain the following insurance from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the State of Oregon and that are acceptable to DAS PS or Purchasing Entity. Coverage shall be primary with any other insurance and self-insurance, with the exception of Professional Liability and Workers' Compensation. Contractor shall pay for all deductibles, self-insured retention and self-insurance, if any.

WORKERS' COMPENSATION & EMPLOYERS' LIABILITY
All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements. If Contractor is a subject employer, as defined in ORS 656.023, Contractor shall also obtain employers' liability insurance coverage with limits not less than $500,000 each accident. If Contractor is an employer subject to any other state's workers' compensation law, Contactor shall provide workers' compensation insurance coverage for its employees as required by applicable workers' compensation laws including employers' liability insurance coverage with limits not less than $500,000 and shall require and ensure that each of its out-of-state subcontractors complies with these requirements.

COMMERCIAL GENERAL LIABILITY:
Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that are satisfactory to the State. This insurance shall include personal and advertising injury liability, products and completed operations, contractual liability coverage for the indemnity provided under this contract, and have no limitation of coverage to designated premises, project or operation. Coverage shall be written on an occurrence basis in an amount of not less than $2,000,000 per occurrence. Annual aggregate limit shall not be less than $4,000,000.

AUTOMOBILE LIABILITY INSURANCE:
Automobile Liability Insurance covering Contractor's business use including coverage for all owned, non-owned, or hired vehicles with a combined single limit of not less than $1,000,000 for bodily injury and property damage. This coverage may be written in combination with the Commercial General Liability Insurance (with separate limits for Commercial General Liability and Automobile Liability). Use of personal automobile liability insurance coverage may be acceptable if evidence that the policy includes a business use endorsement is provided.

GARAGE LIABILITY: Garage Liability Coverage for Garage Operations. Coverage shall not be less than $ 2,000,000 combined single limit.

EXCESS/UMBRELLA INSURANCE:
A combination of primary and excess/umbrella insurance may be used to meet the required limits of insurance.

ADDITIONAL INSURED:
All liability insurance, except for Workers' Compensation, required under this PA or a PO must include an additional insured endorsement specifying the State of Oregon, its officers, employees and agents as Additional Insureds, including additional insured status with respect to liability arising out of ongoing operations and completed operations, but only with respect to Contractor's activities to be performed under this PA or a PO. Coverage shall be primary with any other insurance and self-insurance. The Additional Insured endorsement with respect to liability arising out of your ongoing operations must be on ISO Form CG 20 10 07 04 or equivalent and the Additional Insured endorsement with respect to completed operations must be on ISO form CG 20 37 07 04 or equivalent.

CONTINUOUS CLAIMS MADE COVERAGE:
If any of the required liability insurance is on a claims made basis and does not include an extended reporting period of at least 24 months, then Contractor shall maintain continuous claims made liability coverage, provided the effective date of the continuous claims made coverage is on or before the effective date of the PA or a PO, for a minimum of 24 months following the later of:

- (i) Contractor 's completion and Purchasing Entity's acceptance of all equipment or services required under this PA or a PO, or
- (ii) DAS PS or Purchasing Entity or Contractor termination of this PA or a PO, or
- (iii) The expiration of all warranty periods provided under this PA or a PO.

CERTIFICATE(S) AND PROOF OF INSURANCE:
Contractor shall provide to DAS PS Certificate(s) of Insurance for all required insurance before delivering any equipment and performing any services required under this PA or a PO. The Certificate(s) shall list the State of Oregon, its officers, employees and agents as a Certificate holder and as an endorsed Additional Insured. The Certificate(s) shall also include all required endorsements or copies of the applicable policy language effecting coverage required by this PA or a PO. If excess/umbrella insurance is used to meet the minimum insurance requirement, the Certificate of Insurance must include a list of all policies that fall under the excess/umbrella insurance. As proof of insurance DAS PS has the right to request copies of insurance certificates and endorsements relating to the insurance requirements in this PA or a PO.

NOTICE OF CHANGE OR CANCELLATION:
The Contractor or its insurer must provide at least 30 days' written notice to DAS PS before cancellation of, material change to, potential exhaustion of aggregate limits of, or non-renewal of the required insurance coverage(s).

INSURANCE REQUIREMENT REVIEW:
Contractor agrees to periodic review of insurance requirements by DAS PS under this PA or a PO and to provide updated requirements as mutually agreed upon by Contractor and DAS PS.

STATE ACCEPTANCE:
All insurance providers are subject to DAS PS acceptance.

EXHIBIT NO. 3

CONTRACTOR TAX CERTIFICATION

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury to the best of the individual's knowledge that:

1. The number shown on this form is Contractor's correct taxpayer identification;

    Federal Tax Number 39-0139830

    Oregon Tax Number ______________

2. 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.

3. S/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes,

4. For a period of no fewer than six calendar years preceding the Effective Date of this PA and any PO, Contractor faithfully has complied with:

    (i) All tax laws of this state, including but not limited to ORS 305.380(4), ORS 305.620 and ORS chapters 316, 317, and 318;

    (ii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, to Contractor's property, operations, receipts, or income, or to Contractor's performance of or compensation for any work performed by Contractor;

    (iii) Any tax provisions imposed by a political subdivision of this state that applied to Contractor, or to goods, services, or property, whether tangible or intangible, provided by Contractor; and

    (iv) Any rules, regulations, charter provisions, or ordinances that implemented or enforced any of the foregoing tax laws or provisions.

Contractor: Pierce Manufacturing Inc., Jeff Trelka

Signature Jeff Trelka

Date 5/31/2022