

SUBCONTRACTOR AGREEMENT

THIS AGREEMENT is made between:

Name of Subcontractor: _____

Name of Subcontractor's Authorized Representative: _____

Mailing Address of Subcontractor: _____

City: _____ County: _____ State: _____ Zip: _____

Telephone: _____ Fax: _____

E-mail Address of Subcontractor's Authorized Representative: _____

(herein called "**Subcontractor**"),

and

P.K. MANAGEMENT GROUP, INC., a Florida corporation,
2103 Coral Way, Suite 500; Miami, Florida 33145
Tel. (786) 507-6020 Fax. (305) 858-2214
E-mail Address: vendormanagement@pkmg.net

(herein called "**PKMG**").

Subcontractor and **PKMG** agree as follows:

1. **CONDITIONS OF AGREEMENT.** Subcontractor is required to complete the **Independent Contractor Registration Form and Questionnaire** ("Registration Form"), and meet all of the registration requirements to the satisfaction of PKMG in order to receive Work Orders from PKMG for the performance of the services described in the PKMG Subcontractor Performance Work Statement referenced in this Agreement. By completing the Registration Form to the satisfaction of PKMG, Subcontractor acknowledges that PKMG is not obligated to issue Work Orders to Subcontractor. Rather, Subcontractor's satisfactory completion and submission of the Registration Form is a prerequisite for Subcontractor to be considered for any Work Orders PKMG may choose, in its sole discretion, to issue to Subcontractor. At the request of PKMG, Subcontractor agrees to provide additional information and/or documentation to support and supplement Subcontractor's registration form.

2. **INDEPENDENT CONTRACTOR.**

2.1 Independent Contractor Status. **In making and performing this Agreement, the parties are acting, and shall act, as independent contractors.** Neither party is, nor will be deemed to be, an agent, legal representative, joint venture, franchisor, franchisee, or legal partner of the other party for any purpose. Neither party will be entitled to (a) enter into any contracts or make any representations or warranties in the name of or on behalf of the other party, (b) pledge the credit of the other party in any way or hold itself out as having authority to do so, or (c) make commitments or incur any indebtedness, costs, charges or expenses, or sign any agreement or other document for or in the name of the other party.

2.2 Status of Subcontractor's Employees. **Subcontractor shall be solely responsible for the interviewing, hiring, training, supervision, disciplining, and termination of its employees and shall in all circumstances make clear to each of its employees that such employees are not employees of PKMG.** It is recognized and agreed by both parties that the Subcontractor's employees are not employees of PKMG and are not entitled to participate in or receive any benefits or rights as employees of PKMG, under any employee benefit and welfare plan, including, any employee insurance, pension, savings, or security plan. If Subcontractor "leases" any of its employees, the "leased" employees shall not be considered employees of PKMG. Without limiting the generality of any of the foregoing, the Subcontractor's employees shall not be considered employees of PKMG for purposes of any state or federal laws relating to unemployment insurance, social security, workers compensation, or any regulations which may impute any obligation or liability to PKMG by reason of an employment relationship. Subcontractor shall be solely responsible for providing its employees with the timely and accurate payment of any salaries, wages, benefits or other compensation in accordance with all federal, state and/or local laws, including without limitation, the Service Contract Act of 1965, as amended, (41 U.S.C. 351 et. Seq.) and the Fair Labor Standards Act, as amended, (29 U.S.C. 201 et. Seq.) Similarly, the Subcontractor shall be solely responsible for any insurance and taxes, including health insurance, taxes, FICA, and other governmental levies related to the salaries, wages, benefits and/or other compensation provided to its employees.

2.3 Reports and Payments Relating to Subcontractor's Business. Subcontractor shall, at its sole cost and expense, be solely responsible for making all payments and preparing all reports concerning its business, income, or employees required by any Social Security or income tax act, unemployment act, workers' compensation act, business or license tax act, or other similar revenue or regulatory act, whether federal, state, or local. PKMG assumes no responsibility for the making of any report, or the making of any payments, required under the terms of any such act relating to Subcontractor's business.

Initials (Subcontractor)

Initials(PKMG)

3. **DESCRIPTION OF SERVICES.** Subcontractor will conduct Termite and/or Wood Destroying Organisms inspections (Termite/WDO Inspections) and/or treatment for PKMG. These Termite/WDO inspection and/or treatment services will be described on a written Work Order issued to Subcontractor by PKMG. Subcontractor agrees to perform only such services described on the written Work Order. Subcontractor will have three (3) business days from Work Order issuance to complete assigned Termite/WDO inspection and upload supporting documentation into PKMG's property preservation system, EMS-FSM. Supporting documentation includes the Termite and/or Wood Destroying Organisms Inspection Form as required by applicable state law in the jurisdiction where the subject assigned property is found and corresponding time and date stamped photographs of the property as described in the statement of work (Attachment B). Subcontractor shall perform such services as specified in the Work Order to the standards and specifications as required and prescribed by PKMG.
- 3.1 - Subcontractor shall provide Termite and/or Wood Destroying Organisms inspections and/or treatment (Termite/WDI Inspections) services for PKMG on HUD owned real property as directed by PKMG. **PKMG makes no volume commitment to Subcontractor under this agreement.** PKMG agrees to utilize Subcontractor as a Termite and/or Wood Destroying Organisms inspection and/or treatment vendor performing the description of services described above in the certain states designated by *HUD in RFP R-OPC-23447 as areas 1A, 1P, 1D, 2A, 2D, 1S, 2S, 3D, and 3P. (A copy of the map made part of this agreement and included in Attachment B)*
4. **PRICING.** As full compensation for the services required under this Subcontract, the Subcontractor shall be paid the amounts specified for the items and at the times set forth in Attachment B to this Subcontract. The Subcontractor shall not be entitled to any compensation for services performed or for reimbursement for expenditures incurred other than is set forth in Attachment B, except as may be mutually agreed by the parties hereto in writing prior to the performance of the services or incurrence of the expenditure.
5. **ESTIMATES AND BIDS.** Subcontractor understands and agrees that it may be required to submit estimates and/or bids for ongoing projects and/or work as requested by PKMG. Such estimates and/or bids shall include compensation for all services, including fees required by any governmental entity such as permit fees, materials, and labor costs. All estimates and/or bids shall be submitted on Subcontractor's letterhead. Incomplete estimates and/or bids will not be considered or accepted. In the case where a submitted subcontractor's estimate and/or bid is found to be insufficient to complete the required scope of work, Subcontractor must notify PKMG and submit an amended estimate and/or bid within 24 hours. PKMG may, at its sole discretion award the additional required work to a separate Subcontractor to comply with PKMG's contractual obligations, deadlines, and client requirements.
6. **PERMITS AND REGULATIONS.** During the course of performance of the Work Order, it may become necessary for the Subcontractor to obtain permits for work deemed necessary and proper to complete the work, which permits were not adequately or properly anticipated by the Subcontractor in its estimate and/or bid. Subcontractor agrees, at its expense, to obtain and pay for all additional necessary permits, fees, and licenses pertaining to the Work Order and agrees to comply with all federal, state, and local laws, ordinances, building codes and rules and regulations, and the Board of Fire Underwriters. Subcontractor shall provide PKMG copies of all permits, fee invoices, licenses, and any other document demonstrating compliance with this Section within 24 hours of Subcontractor's receipt of the same. The procurement of permits and licenses and payment of fees provided for in this Section shall be at the sole expense of Subcontractor, and will not be reimbursed by PKMG unless previously agreed upon in writing and identified in the Work Order.
7. **COMPLETION DATE; TIME IS OF THE ESSENCE.** The parties understand and agree that the services required under this Agreement must be performed promptly upon Subcontractor's receipt of the Work Order. Therefore, Subcontractor agrees that time is of the essence with respect to performance, and Subcontractor shall complete the work on or before the Completion Date set forth in the Work Order. Subcontractor further agrees that it shall notify PKMG in writing, within 24 hours of receipt of a Work Order if Subcontractor determines that there will be any delay in the commencement or completion of the work. Said notification shall describe the reason(s) for any delay and the anticipated completion date. PKMG, in its sole discretion, may rescind the Work Order and terminate this Agreement if the reasons for delay in commencement or completion are not acceptable to PKMG. If the Subcontractor undertakes the work and fails to complete the work within the required time frame specified in the Work Order, the Subcontractor shall be in default of its obligations under this Agreement, and PKMG may, in its sole discretion, rescind the Work Order and terminate this Agreement. To the extent that PKMG incurs additional costs in connection with rescinding the Work Order and terminating this Agreement, such additional costs shall be deducted from any amounts that may be due for work performed by Subcontractor before rescission and termination.
8. **ACCESS TO SUBCONTRACTOR RECORDS.** Subcontractor agrees to allow PKMG, its representatives, agents, and assignees, access to relevant subcontractor records for the purposes of quality control and compliance audits on an as needed basis. Subcontractor agrees to provide PKMG with all relevant records within 24 hours of a written request, (a) personally delivered to Subcontractor's Authorized Representative; (b) electronically mailed to the e-mail address of Subcontractor set forth above; or (c) overnight receipted express mail delivery to Subcontractor's Authorized Representative as set forth above. PKMG may request these records in either and electronic format, hard copies, or both.

9. **KEY PERSONNEL.** Subcontractor agrees to provide PKMG a list of Key Personnel employed by subcontractor for various technical, administrative, and management functions. This list will be the primary contacts for day to day activities as required during the performance of the Work Order. **This is not the Subcontractor's Authorized Representative as defined in Section 8 (Access to Subcontractor Records) and Section 25 (Notices).**
10. **COOPERATION WITH OTHER SUBCONTRACTORS.** Subcontractor acknowledges and agrees that PKMG may use more than one subcontractor in connection with a particular property or properties. In furtherance of the timely performance required by all subcontractors involved in a particular property or properties, Subcontractor agrees to perform its work in such a manner so as not to delay any other subcontractor utilized by PKMG and to cooperate with other subcontractors engaged by PKMG to perform additional services at the subject property or properties.
11. **GENERAL OBLIGATION TO COMPLY WITH APPLICABLE LAW.** Subcontractor shall, at its sole cost and expense, comply with all applicable laws, rules, regulations, and other governmental requirements (as each of the foregoing may be amended or modified from time to time) relating to or affecting this Agreement, and Subcontractor shall obtain and maintain all permits, licenses, and consents required in connection therewith. Subcontractor acknowledges and agrees that Subcontractor is required to maintain records regarding its compliance with this Section 11 and that PKMG shall have access to all such records, in each case as set forth in further detail in Section 11.
- 11.1 Compliance with Specific Laws - Without limiting the generality of Section 11, Subcontractor shall, at its sole cost and expense, comply with the following laws, rules, regulations, and other governmental requirements:
- 11.1.1 The Service Contract Act of 1965, as amended, (41 U.S.C. 351 et. seq.), and all regulations promulgated hereunder. AS REQUIRED BY THE SERVICE CONTRACT ACT OF 1965, THE PROVISIONS OF 29 C.F.R. SECTIONS 4.6 "LABOR STANDARDS CLAUSES FOR FEDERAL SERVICES CONTRACTS EXCEEDING \$2,500" ARE INCORPORATED INTO THIS AGREEMENT BY REFERENCE AS MATERIAL PROVISIONS. 29 C.F.R. SECTIONS 4.6 "LABOR STANDARDS CLAUSES FOR FEDERAL SERVICES CONTRACTS EXCEEDING \$2,500" IS ATTACHED HERETO AS ATTACHMENT A.
- 11.1.2 The Fair Labor Standards Act, as amended, (29 U.S.C. 201 et seq.), and all regulations promulgated hereunder.
12. **HEALTH AND SAFETY.** Subcontractor shall be responsible for compliance with all health and safety rules and regulations. Subcontractor shall indemnify, defend, and hold PKMG harmless from any and all expenses incurred by PKMG, including attorney's fees at the trial, appellate, and Bankruptcy court levels. Subcontractor additionally agrees to hold PKMG harmless for all fines and penalties, arising from any corrective measures that result from acts of commission or omission by Subcontractor, its agents, employees, and sub-sub contractors arising out of Subcontractor's failure to comply with health and safety rules and regulations.
13. **SECURITY AND CLEAN UP.** Subcontractor shall effectively secure and protect its work, and shall bear and be liable for any and all loss or damage of any kind that may occur to the work at any time prior to final completion and acceptance by PKMG. Subcontractor shall clean and/or remove all of Subcontractor's materials from the site, including dirt, debris, and rubbish created by Subcontractor in the execution of the Work Order.
14. **GUARANTEE AND WARRANTY.** In addition to any warranties required by the Work Order, Subcontractor shall guarantee its work and repair, at its own expense and at the convenience of PKMG any defects in the work or materials within 30 days from the date of completion of the Work Order. Subcontractor shall pay for all damages to the building or property resulting from defects in the work or materials and all expenses necessary to remove, replace, and/or repair any property which may be damaged during the course of performance of the repair work.
15. **CHANGES TO WORK ORDERS.** Subcontractor shall not make any changes to the Work Order. However, Subcontractor may request amended Work Orders from PKMG to reflect information and/or updates provided by PKMG during the course of performing a Work Order. PKMG will not pay for any work performed unless it is described in the Work Order or a written amended Work Order.
16. **SUPPORTING DOCUMENTATION FOR WORK PERFORMED.** In order for Subcontractor to be entitled to payment for work performed under a properly issued Work Order, Subcontractor shall submit, within 24 hours of completion, the following documentation: (a) date-stamped before and after photos of all work performed as specified by the Work Order; (b) a date stamped photo of the sign-in sheet located at the subject property; and (c) in the case of a land/lot/acreage property, a date-stamped photo of the property identifier (e.g. surveyor's stake painted bright orange with asset number written in black permanent marker), (d) any and all additional documentation as required by the Work Order (e.g. permits, certificates of completion, etc.), (e) a copy of the Work Order issued by PKMG. Failure to submit the required supporting photo and/or written documentation within 24 hours of completion may result in nonpayment of the Subcontractor's invoice.
17. **INVOICES.** Subcontractor agrees to abide by all invoicing and billing procedures as established by PKMG.

Initials (Subcontractor)

Initials(PKMG)

18. **DISPUTE RESOLUTION REGARDING PAYMENT.** Subcontractor disputes over payment shall be initiated by notifying PKMG's Accounting Department in writing of the dispute, and setting forth the nature of the dispute in as much detail as possible. Within 10 days of receipt of Subcontractor's notice of payment dispute, PKMG shall investigate the dispute, and furnish a written response to Subcontractor regarding PKMG's position, which may be nonpayment, partial payment or full payment. PKMG's position may include, but not be limited to: Subcontractor's failure to adequately document its claim, PKMG's identification of suspected duplicate transactions or fraud, Subcontractor's failure to furnish a signed statement validating the provision of services, or Subcontractor's failure to perform the services invoiced. PKMG may initiate a dispute over payment by notifying Subcontractor's Authorized Representative in writing of the dispute and setting forth the nature of the dispute in as much detail as possible. Within 10 days of receipt of PKMG's notice of payment dispute, Subcontractor shall investigate the dispute, and furnish a written response to PKMG regarding Subcontractor's position. In the event the parties fail to resolve the payment dispute, either party may seek redress only in the State or Federal Courts located in Miami-Dade County, Florida, as provided in Section 24 of this Agreement.
19. **INSURANCE AND INDEMNIFICATION.** Subcontractor shall provide PKMG Vendor Management Department with documentation of the following insurance coverage which shall be in effect during the performance of the Work Order:

| Insurance Coverage | Insurance Limit(s) |
|---|--|
| (a) General Liability Insurance, or comparable coverage naming PKMG as an additional insured | \$1,000,000 for each occurrence \$2,000,000 in the aggregate |
| (b) Automobile Liability Insurance naming PKMG as an additional insured. | \$1,000,000 combined single limit |
| (c) Workers' Compensation and Employer's Liability Insurance | As required by the State in which the work is performed |
| (d) For WDO Contractors, Roof Contractors, Appraisers, and PCR Inspectors | \$1,000,000 in errors and omission coverage |
| The foregoing required insurance coverage shall further provide that the insurance will not be cancelled until after 30 days' notice to PKMG. | Failure to maintain the required insurance coverage is grounds for immediate termination of this Agreement by PKMG. |

Subcontractor shall defend, indemnify and hold PKMG harmless to the fullest extent permissible by law from all loss, damage, cost, expense, and attorney's fees (including attorney's fees on appeal and for appearances in Bankruptcy Court) which PKMG may suffer or incur, including attorney's fees incurred on account of threatened litigation, arising out of the nonperformance of this Section, including but not limited to Workers' Compensation claims.

20. **CONFIDENTIALITY.** Subcontractor acknowledges and agrees that it may have access to and become acquainted with PKMG's trade secrets, trademarks, inventions, customer lists, accounts, services, innovations, processes and procedures, information, records, and specifications owned or licensed by PKMG and/or used by PKMG in connection with the operation of its business ("Confidential Information"). Subcontractor agrees that it will not disclose, either directly or indirectly, any of the Confidential Information to any third party. Subcontractor further agrees that it will not use the Confidential Information except in connection with Subcontractor's performance of this Agreement. All PKMG files, records, documents, blueprints, specifications, letters, notes, original artwork, furnished notebooks and similar items coming into Subcontractor's possession shall remain the exclusive property of PKMG and shall be returned to PKMG by Subcontractor upon the completion of the Work Order or earlier termination of this Agreement or upon written request from PKMG that said property be returned. Subcontractor agrees to take all necessary and reasonable steps to preserve the Confidential Information during and after the termination or expiration of this Agreement. Subcontractor further agrees that it will not disclose to any third parties the fact that Subcontractor has been retained by PKMG, without the prior written consent of PKMG.

Initials (Subcontractor)

Initials(PKMG)

21. **NON-SOLICITATION AND NON-COMPETITION.** Subcontractor agrees that during the term of this Agreement and for 12 consecutive months after the termination or expiration of this Agreement, it will not solicit business from any client of PKMG in the State or states in which Subcontractor performs services for PKMG under this Agreement nor will it compete with PKMG in the provision of services of the kind and nature Subcontractor performs for PKMG pursuant to the Work Order or Work Orders. Subcontractor further agrees that the non-competition and non-solicitation provisions of this Agreement are necessary to protect PKMG's legitimate business interests, including, without limitation, the confidential business or professional information and trade secrets of PKMG, the relationships between PKMG and its clients, vendors and subcontractors, and the goodwill of PKMG. Subcontractor further agrees that the 12-month duration and geographical limitations of this Section 15 are reasonable, and enforcement of this provision, whether by injunctive relief, damages or otherwise, is in no way contrary to the public health, safety and welfare. In the event a court of Competent Jurisdiction (defined as the State of Federal Courts located and situated in Miami-Dade County, Florida) determines that either the time or geographical limitations of this provision are invalid, the court may establish different time or geographical restriction, and the parties agree to comply with the court's orders. The parties acknowledge and agree that Subcontractor's breach of this provision will result in irreparable injury to PKMG not capable of being measured by money damages, and PKMG does not have an adequate remedy at law to redress such injury. Thus, in the event there is a breach or threatened breach of this Section 17 of this Agreement, PKMG shall be entitled to seek and obtain injunctive relief without the posting of a bond in order to enforce the Subcontractor's non-solicitation and non-competition agreement. Subcontractor agrees to reimburse PKMG for all costs and expenses, including attorney's fees at the trial and appellate levels and in bankruptcy court, in connection with PKMG's enforcement action. This provision does not limit any other rights and legal or equitable remedies available to PKMG on account of Subcontractor's breach of this Section.
22. **NO KICKBACKS, REBATES, REFERRAL FEES.** PKMG does not permit its subcontractors to engage in any transaction which may create a conflict of interest between PKMG and the Subcontractor. In particular, Subcontractor agrees not to - (a) accept or offer any payment or kickbacks from or to any PKMG employee; (b) provide undue or improperly influenced rebates; or (c) accept referral fees from any entities associated with any Work Order, including referral fees from PKMG employees.
23. **CANCELLATION.** In the event the Work Order is cancelled for any reason outside of Subcontractor's control and on account of no fault of Subcontractor, PKMG shall compensate Subcontractor for any work completed up to the date of cancellation, provided that Subcontractor furnishes to PKMG an itemized invoice of all services performed to date. Compensation for cancelled Work Orders shall be paid according to the regular payment schedule as established by the PKMG Accounting Department. (See Section 14, DISPUTE RESOLUTION, in the event the parties cannot agree on the value of the work performed to the date of cancellation.)
24. **TERMINATION.** PKMG may terminate this Agreement without prior notice to Subcontractor in the event the Subcontractor fails to perform the Work Order as specified or otherwise breaches this Agreement. Each and every aspect of Subcontractor's performance is critical to the success of PKMG's performance of its own contracts, including but not limited to: timeliness, quality of the work, documentation of the work, use of appropriate materials, hiring of capable workers and lawful treatment of workers, maintenance of insurances required, and adhering to the non-solicitation and non-competition provision. PKMG shall give written notice of the termination and the reasons thereof within 24 hours of Subcontractor's noncompliance.
25. **NOTICES.** Any and all notices, demands, or other communications related to this Agreement shall be in writing, and shall be deemed to have been properly given if: (a) personally delivered to **Subcontractor's Authorized Representative**; (b) electronically mailed to the e-mail address of Subcontractor set forth above; or (c) overnight receipted express mail delivery to Subcontractor's Authorized Representative as set forth above.
26. **NON-ASSIGNABLE.** This Agreement is not assignable without the written consent of PKMG, which consent may be withheld solely in the discretion of PKMG. A non-permissible assignment is grounds for termination.
27. **SEVERABILITY.** If any provision of this Agreement is held to be invalid or unenforceable by a court of Competent Jurisdiction (defined as the State of Federal Courts located and situated in Miami-Dade County, Florida), the remaining provisions shall continue to be valid and enforceable; it being the parties intention that this Agreement be upheld by a court as though the offending provisions were not included.
28. **COMPLIANCE WITH APPLICABLE FEDERAL LAWS AND REGULATIONS.** Subcontractor agrees to comply with all applicable Federal Laws, Rules, Regulations, and Guidelines concerning Federal Acquisitions Regulations (FAR) as a subcontractor to PKMG where applicable to the subcontractor. Information concerning the FAR may be found at <https://www.acquisition.gov/far>. Subcontractor also agrees to comply with all rules, regulations, and instructions, as issued by the United States Department of Housing and Urban Development <http://www.hud.gov>.

29. **GOVERNING LAW AND VENUE FOR COURT PROCEEDINGS; ATTORNEY'S FEES.** PKMG is a Florida corporation, having its principal place of business in Miami, Miami-Dade County, Florida. The parties agree that Florida law shall govern the construction, interpretation, and enforcement of this Agreement. The parties further agree that any legal action arising out of this Agreement shall be brought in either the State of Federal Court located and situated in Miami-Dade County, Florida. By entering into this Agreement, Subcontractor hereby waives any claims it may have related to jurisdiction of the Florida courts over Subcontractor and to the Florida venue selected by PKMG, including any claims of inconvenient or improper forum. The prevailing party in any court action arising out of this Agreement shall be entitled to be awarded its reasonable attorney's fees and expenses of litigation, including attorney's fees and expenses incurred at the trial and appellate level and in Bankruptcy court.
30. **TAXES.** The monies paid to Subcontractor hereunder are inclusive of any applicable sales, use, gross receipts, excise, value-added, withholding, personal property, or other similar taxes attributable to periods on or after the execution of this Agreement ("Taxes"). If any Taxes are assessed on the provision of the services by Subcontractor to PKMG or on Subcontractor's charges to PKMG under this Agreement, however levied or assessed, Subcontractor shall bear and be responsible for and pay the amount of any such Taxes, and, if applicable, shall reimburse PKMG for the amount of any such Taxes paid by PKMG. Except as otherwise expressly provided herein, each party shall pay all taxes and legal, accounting, and other expenses incurred by such party in connection with the negotiation, execution, and performance of this Agreement.
31. **INDEMNIFICATION.** Subcontractor agrees to indemnify, hold harmless and, at PKMG's option, defend PKMG and its affiliates, and their respective directors, officers, employees, contractors, and agents (the "PKMG Indemnified Parties") from all liabilities, damages, fees, fines, penalties, and claims of any kind, costs of suit, settlements, judgments, and any other expense (including attorney's fees) to which any of the PKMG Indemnified Parties may be subjected, arising out of or in connection with:
- 31.1 the acts or omissions of Subcontractor, its agents or any Subcontractor employee;
 - 31.2 any action, suit, claim, or legal, administrative, arbitration, governmental or other proceeding or investigation initiated by or on behalf of any Subcontractor employee based on a theory that any of the PKMG Indemnified Parties is an employer or joint employer of such Subcontractor employee, including any action, suit, claim, or legal, administrative, arbitration, governmental or other proceeding or investigation (a) for unlawful discrimination of any kind or (b) under federal or state law for violations of wage or overtime laws;
 - 31.3 any action, suit, claim, or legal, administrative, arbitration, governmental or other proceeding or investigation initiated by or on behalf of any Subcontractor employee for damage to property or bodily injury (including death);
 - 31.4 any failure by Subcontractor to obtain the insurance coverage required under Section 18.
32. **NOTICE OF SITUATION.** If Subcontractor becomes aware of a situation where it has failed to comply with its obligations hereunder (or is likely to do so) Subcontractor shall promptly inform PKMG in writing of such situation, the impact or expected impact of such situation, and Subcontractor's action plan to minimize or eliminate the impact of such situation.
33. **AMENDMENT.** This Agreement may be modified or amended only by a written agreement signed by the parties.
34. **ENTIRE AGREEMENT.** This Agreement represents the entire agreement of the parties. There are no other agreements, promises, or conditions, whether oral or written, concerning the subject matter of this Agreement. This Agreement specifically supersedes any prior written or oral agreements between the parties.

By: _____
(Signature of Authorized PKMG Representative)

By: _____
(Signature of Authorized Subcontractor Representative)

Printed Name

Printed Name

Date Signed

Date Signed

Initials (Subcontractor)

Initials (PKMG)

ATTACHMENT A

SERVICE CONTRACT ACT

29 CFR 4.6 - Labor standards clauses for Federal service contracts exceeding \$2,500

Initials (Subcontractor)

Initials(PKMG)

29 CFR 4.6 - Labor standards clauses for Federal service contracts exceeding \$2,500.

The clauses set forth in the following paragraphs shall be included in full by the contracting agency in every contract entered into by the United States or the District of Columbia, in excess of \$ 2,500, or in an indefinite amount, the principal purpose of which is to furnish services through the use of service employees:

(a) Service Contract Act of 1965, as amended: This contract is subject to the Service Contract Act of 1965, as amended (*41 U.S.C. 351 et seq.*) and is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor issued there under (29 CFR part 4).

(b)(1) Each service employee employed in the performance of this contract by the contractor or any subcontractor shall be paid not less than the minimum monetary wages and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or authorized representative, as specified in any wage determination attached to this contract.

(2)(i) If there is such a wage determination attached to this contract, the contracting officer shall require that any class of service employee which is not listed therein and which is to be employed under the contract (i.e., the work to be performed is not performed by any classification listed in the wage determination), be classified by the contractor so as to provide a reasonable relationship (i.e., appropriate level of skill comparison) between such unlisted classifications and the classifications listed in the wage determination. Such conformed class of employees shall be paid the monetary wages and furnished the fringe benefits as are determined pursuant to the procedures in this section.

(ii) Such conforming procedure shall be initiated by the contractor prior to the performance of contract work by such unlisted class of employee. A written report of the proposed conforming action, including information regarding the agreement or disagreement of the authorized representative of the employees involved or, where there is no authorized representative, the employees themselves, shall be submitted by the contractor to the contracting officer no later than 30 days after such unlisted class of employees performs any contract work. The contracting officer shall review the proposed action and promptly submit a report of the action, together with the agency's recommendation and all pertinent information including the position of the contractor and the employees, to the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, for review. The Wage and Hour Division will approve, modify, or disapprove the action or render a final determination in the event of disagreement within 30 days of receipt or will notify the contracting officer within 30 days of receipt that additional time is necessary.

(iii) The final determination of the conformance action by the Wage and Hour Division shall be transmitted to the contracting officer who shall promptly notify the contractor of the action taken. Each affected employee shall be furnished by the contractor with a written copy of such determination or it shall be posted as a part of the wage determination.

(iv)(A) The process of establishing wage and fringe benefit rates that bear a reasonable relationship to those listed in a wage determination cannot be reduced to any single formula. The approach used may vary from wage determination to wage determination depending on the circumstances. Standard wage and salary administration practices which rank various job classifications by pay grade pursuant to point schemes or other job factors may, for example, be relied upon. Guidance may also be obtained from the way different jobs are rated under Federal pay systems (Federal Wage Board Pay System and the General Schedule) or from other wage determinations issued in the same locality. Basic to the establishment of any conformable wage rate(s) is the concept that a pay relationship should be maintained between job classifications based on the skill required and the duties performed.

(B) In the case of a contract modification, an exercise of an option or extension of an existing contract, or in any other case where a contractor succeeds a contract under which the classification in question was previously conformed pursuant to this section, a new conformed wage rate and fringe benefits may be assigned to such conformed classification by indexing (i.e., adjusting) the previous conformed rate and fringe benefits by an amount equal to the average (mean) percentage increase (or decrease, where appropriate) between the wages and fringe benefits specified for all classifications to be used on the contract which are listed in the current wage determination, and those specified for the corresponding classifications in the previously applicable wage determination. Where conforming actions are accomplished in accordance with this paragraph prior to the performance of contract work by the unlisted class of employees, the contractor shall advise the contracting officer of the action taken but the other procedures in paragraph (b)(2)(ii) of this section need not be followed.

(C) No employee engaged in performing work on this contract shall in any event be paid less than the currently applicable minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(v) The wage rate and fringe benefits finally determined pursuant to paragraphs (b)(2)(i) and (ii) of this section shall be paid to all employees performing in the classification from the first day on which contract work is performed by them in the classification. Failure to pay such unlisted employees the compensation agreed upon by the interested parties and/or finally determined by the Wage and Hour Division retroactive to the date such class of employees commenced contract work shall be a violation of the Act and this contract.

(vi) Upon discovery of failure to comply with paragraphs (b)(2)(i) through (v) of this section, the Wage and Hour Division shall make a final determination of conformed classification, wage rate, and/or fringe benefits which shall be retroactive to the date such class of employees commenced contract work.

(3) If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965 as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Wage and Hour Division, Employment Standards Administration of the Department of Labor as provided in such Act.

Initials (Subcontractor)

Initials(PKMG)

- (c) The contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of bona fide fringe benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in subpart D of 29 CFR part 4, and not otherwise.
- (d)(1) In the absence of a minimum wage attachment for this contract, neither the contractor nor any subcontractor under this contract shall pay any person performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938. Nothing in this provision shall relieve the contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.
- (2) If this contract succeeds a contract, subject to the Service Contract Act of 1965 as amended, under which substantially the same services were furnished in the same locality and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, in the absence of the minimum wage attachment for this contract setting forth such collectively bargained wage rates and fringe benefits, neither the contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work (regardless of whether or not such employee was employed under the predecessor contract), less than the wages and fringe benefits provided for in such collective bargaining agreements, to which such employee would have been entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the limitations of § 4.1b(b) of 29 CFR part 4 apply or unless the Secretary of Labor or his authorized representative finds, after a hearing as provided in § 4.10 of 29 CFR part 4 that the wages and/or fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a character similar in the locality, or determines, as provided in § 4.11 of 29 CFR part 4, that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations. Where it is found in accordance with the review procedures provided in 29 CFR 4.10 and/or 4.11 and parts 6 and 8 that some or all of the wages and/or fringe benefits contained in a predecessor contractor's collective bargaining agreement are substantially at variance with those which prevail for services of a character similar in the locality, and/or that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, the Department will issue a new or revised wage determination setting forth the applicable wage rates and fringe benefits. Such determination shall be made part of the contract or subcontract, in accordance with the decision of the Administrator, the Administrative Law Judge, or the Administrative Review Board, as the case may be, irrespective of whether such issuance occurs prior to or after the award of a contract or subcontract. *53 Comp. Gen. 401 (1973)*. In the case of a wage determination issued solely as a result of a finding of substantial variance, such determination shall be effective as of the date of the final administrative decision.
- (e) The contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum monetary wage and any fringe benefits required to be paid pursuant to this contract, or shall post the wage determination attached to this contract. The poster provided by the Department of Labor (Publication WH 1313) shall be posted in a prominent and accessible place at the worksite. Failure to comply with this requirement is a violation of section 2(a)(4) of the Act and of this contract.
- (f) The contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR part 1925.
- (g) (1) The contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in paragraphs (g)(1) (i) through (vi) of this section for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Wage and Hour Division, Employment Standards Administration of the U.S. Department of Labor:
- (i) Name and address and social security number of each employee.
 - (ii) The correct work classification or classifications, rate or rates of monetary wages paid and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation of each employee.
 - (iii) The number of daily and weekly hours so worked by each employee.
 - (iv) Any deductions, rebates, or refunds from the total daily or weekly compensation of each employee.
 - (v) A list of monetary wages and fringe benefits for those classes of service employees not included in the wage determination attached to this contract but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator or authorized representative pursuant to the labor standards clause in paragraph (b) of this section. A copy of the report required by the clause in paragraph (b)(2)(ii) of this section shall be deemed to be such a list.
 - (vi) Any list of the predecessor contractor's employees which had been furnished to the contractor pursuant to § 4.6(l)(2).
- (2) The contractor shall also make available a copy of this contract for inspection or transcription by authorized representatives of the Wage and Hour Division.
- (3) Failure to make and maintain or to make available such records for inspection and transcription shall be a violation of the regulations and this contract, and in the case of failure to produce such records, the contracting officer, upon direction of the

Department of Labor and notification of the contractor, shall take action to cause suspension of any further payment or advance of funds until such violation ceases.

(4) The contractor shall permit authorized representatives of the Wage and Hour Division to conduct interviews with employees at the worksite during normal working hours.

(h) The contractor shall unconditionally pay to each employee subject to the Act all wages due free and clear and without subsequent deduction (except as otherwise provided by law or Regulations, 29 CFR part 4), rebate, or kickback on any account. Such payments shall be made no later than one pay period following the end of the regular pay period in which such wages were earned or accrued. A pay period under this Act may not be of any duration longer than semi-monthly.

(i) The contracting officer shall withhold or cause to be withheld from the Government prime contractor under this or any other Government contract with the prime contractor such sums as an appropriate official of the Department of Labor requests or such sums as the contracting officer decides may be necessary to pay underpaid employees employed by the contractor or subcontractor. In the event of failure to pay any employees subject to the Act all or part of the wages or fringe benefits due under the Act, the agency may, after authorization or by direction of the Department of Labor and written notification to the contractor, take action to cause suspension of any further payment or advance of funds until such violations have ceased. Additionally, any failure to comply with the requirements of these clauses relating to the Service Contract Act of 1965, may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the contractor in default with any additional cost.

(j) The contractor agrees to insert these clauses in this section relating to the Service Contract Act of 1965 in all subcontracts subject to the Act. The term contractor as used in these clauses in any subcontract, shall be deemed to refer to the subcontractor, except in the term Government prime contractor.

(k) (1) As used in these clauses, the term service employee means any person engaged in the performance of this contract other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in part 541 of title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations. The term service employee includes all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(2) The following statement is included in contracts pursuant to section 2(a)(5) of the Act and is for informational purposes only:

The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 or 5 U.S.C. 5332 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

\$

Employee class

Monetary wage-fringe benefits

Initials (Subcontractor)

Initials(PKMG)

(1) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government prime contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government prime contractor shall report such fact to the contracting officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(2) Not less than 10 days prior to completion of any contract being performed at a Federal facility where service employees may be retained in the performance of the succeeding contract and subject to a wage determination which contains vacation or other benefit provisions based upon length of service with a contractor (predecessor) or successor (§ 4.173 of Regulations, 29 CFR part 4), the incumbent prime contractor shall furnish to the contracting officer a certified list of the names of all service employees on the contractor's or subcontractor's payroll during the last month of contract performance. Such list shall also contain anniversary dates of employment on the contract either with the current or predecessor contractors of each such service employee. The contracting officer shall turn over such list to the successor contractor at the commencement of the succeeding contract.

(m) Rulings and interpretations of the Service Contract Act of 1965, as amended, are contained in Regulations, 29 CFR part 4.

(n) (1) By entering into this contract, the contractor (and officials thereof) certifies that neither it (nor he or she) nor any person or firm who has a substantial interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of the sanctions imposed pursuant to section 5 of the Act.

(2) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract pursuant to section 5 of the Act.

(3) The penalty for making false statements is prescribed in the U.S. Criminal Code, *18 U.S.C. 1001*.

(o) Notwithstanding any of the clauses in paragraphs (b) through (m) of this section relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Public Law 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower than the minimum wages otherwise required by section 2(a)(1) or 2(b)(1) of the Service Contract Act without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the conditions and procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, in the regulations issued by the Administrator (29 CFR parts 520, 521, 524, and 525).

(2) The Administrator will issue certificates under the Service Contract Act for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR parts 520, 521, 524, and 525).

(3) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in parts 525 and 528 of title 29 of the Code of Federal Regulations.

(p) Apprentices will be permitted to work at less than the predetermined rate for the work they perform when they are employed and individually registered in a bona fide apprenticeship program registered with a State Apprenticeship Agency which is recognized by the U.S. Department of Labor, or if no such recognized agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, U.S. Department of Labor. Any employee who is not registered as an apprentice in an approved program shall be paid the wage rate and fringe benefits contained in the applicable wage determination for the journeyman classification of work actually performed. The wage rates paid apprentices shall not be less than the wage rate for their level of progress set forth in the registered program, expressed as the appropriate percentage of the journeyman's rate contained in the applicable wage determination. The allowable ratio of apprentices to journeymen employed on the contract work in any craft classification shall not be greater than the ratio permitted to the contractor as to his entire work force under the registered program.

(q) Where an employee engaged in an occupation in which he or she customarily and regularly receives more than \$ 30 a month in tips, the amount of tips received by the employee may be credited by the employer against the minimum wage required by Section 2(a)(1) or 2(b)(1) of the Act to the extent permitted by section 3(m) of the Fair Labor Standards Act and Regulations, 29 CFR Part 531. To utilize this proviso:

(1) The employer must inform tipped employees about this tip credit allowance before the credit is utilized;

(2) The employees must be allowed to retain all tips (individually or through a pooling arrangement and regardless of whether the employer elects to take a credit for tips received);

(3) The employer must be able to show by records that the employee receives at least the applicable Service Contract Act minimum wage through the combination of direct wages and tip credit;

(4) The use of such tip credit must have been permitted under any predecessor collective bargaining agreement applicable by virtue of section 4(c) of the Act.

(r) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 4, 6, and 8. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(The information collection, recordkeeping, and reporting requirements contained in this section have been approved by the Office of Management and Budget under the following numbers:

\$

Paragraph

OMB control number

(b)(2) (i) -- (iv)

1215-0150

(e)

1215-0150

(g)(1) (i) -- (iv)

1215-0017

(g)(1) (v), (vi)

1215-0150

(l) (1), (2)

1215-0150

(q)(3)

1215-0017

ATTACHMENT B

Scope of Work - Termite/WDO (Wood Destroying Organisms) Inspection

The Subcontractor shall perform and deliver to PKMG a Termite and/or Wood Destroying Organisms (WDO) inspection within three (3) business days of receipt of work order issued by the PKMG/FASC (Field Asset Services Coordinator). Said inspection will include a estimate/bid for treatment as required to obtain a clearance letter*.

**If the property is located in a jurisdiction, that mandates sectioned Termite and/or Wood Destroying Organisms (WDO) reports, the Subcontractor will provide in addition to the inspection, an estimate/bid to treat and effect all repairs necessary to clear all Section 1 items.*

The report will be delivered as directed by the PKMG/FASC.

All inspection reports will be submitted in the required form as mandated by state or local jurisdiction.

Licensed and/or certified pest control technicians shall perform all inspections.

For properties, which require a Termite and/or a WDO inspection, the Subcontractor may be required to provide a current Termite/WDO clearance letter prior to closing if requested by the PKMG/FASC. In some areas this will require a re-inspection no earlier than thirty (30) days prior to closing. The Subcontractor will perform and deliver the re-inspection within two (2) business days of receipt of work order issued by the PKMG/FASC (Field Asset Services Coordinator).

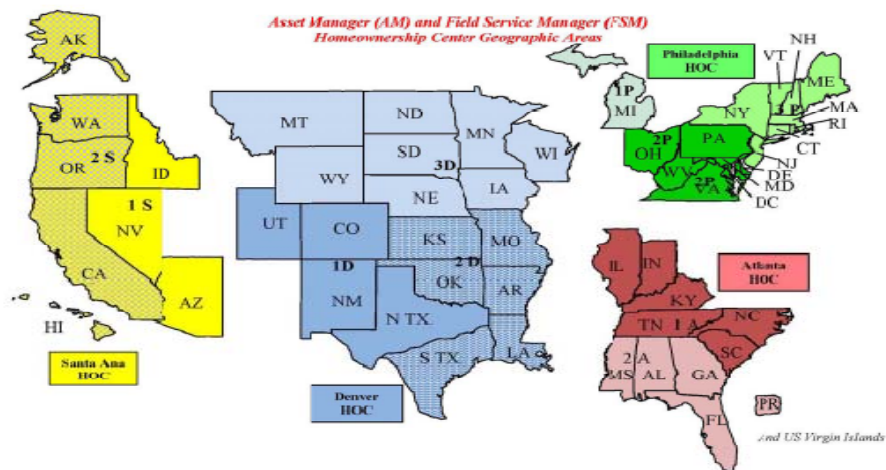
Scope of Work - Termite/WDO (Wood Destroying Organisms) Treatment

The Subcontractor shall perform Termite and/or Wood Destroying Organisms (WDO) treatment as required and deliver to PKMG a Termite and/or Wood Destroying Organisms (WDO) clearance letter and/or warranty within the time frame specified on the work order issued by the PKMG/FASC (Field Asset Services Coordinator).

Pricing (Termite/WDO Treatment)

The Subcontractor and PKMG will agree, prior to the issuance of a work order, to a price in writing for the referenced service. The Subcontractor shall perform and deliver to PKMG the services at the agreed upon price and within the time frames as reflected in the Work Order.

HUD-M&M III National Contract Areas



July 16, 2009

Initials (Subcontractor)

Initials(PKMG)