

**WASHINGTON AFFILIATED INTEREST FILING**

**ATTACHMENT A**

**THIRD AMENDMENT TO  
MASTER MATERIALS SUPPLY CONTRACT 4700001118  
FOR AERIAL CABLE SYSTEMS DESIGN, MATERIAL, AND SERVICES**

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This THIRD AMENDMENT TO MASTER MATERIALS SUPPLY CONTRACT (this “Amendment”) is by and between PacifiCorp an Oregon corporation (“Company”), and MARMON UTILITY, LLC dba HENDRIX AERIAL CABLE SYSTEM, a New Hampshire company (“Supplier”).

**RECITALS**

- A. Company and Supplier are parties to that certain “Master Materials Supply Contract (Contract No. 4700001118)”, dated as of December 29, 2016 (as further amended, modified and supplemented from time to time, the “Contract”).
- B. Company and Supplier desire to amend the Contract on the terms and conditions specified in this Amendment.
- C. Notwithstanding the expiration of the Contract on December 31, 2020, the parties agree that the terms and conditions set forth in the Contract have remained in full force and effect since that date to the present and shall apply to the continued performance of the Work as if the Contract had not expired.

**AGREEMENT**

In consideration of the foregoing premises and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Supplier agree as follows:

- (a) **DEFINITIONS.** The definition of term in Article 1 of the Contract is hereby amended and restated in its entirety to read as follows:

*Cyber Assets shall mean programmable electronic devices, including the hardware, software, and data in those devices.*

*Data shall mean any and all data, information, formulae, algorithms, or other content that Company or its Personnel create, generate or modify (i) using the Software, (ii) that is hosted by Supplier or (iii) that is stored on Company’s systems and that is accessible by Supplier. Data also includes user identification information and metadata which may contain the foregoing data or from which the foregoing data may be ascertainable.*

*E-Verify shall mean the web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States. E-Verify employers verify the identity and employment eligibility of newly hired employees by electronically matching information provided by employees on the Form I-9, Employment Eligibility Verification, against records available to the Social Security Administration (SSA) and the Department of Homeland Security (DHS).*

*Term shall mean the period commencing upon the full execution of the Contract and continuing thereafter until December 31, 2021 unless earlier terminated as provided herein."*

*Security Incident shall mean any circumstance when (i) Supplier knows or reasonably believes that the confidentiality, integrity, or availability of any Company Information has been adversely impacted, including but not limited to, incidents where Company Information has been damaged, lost, corrupted, destroyed, or accessed, acquired, modified, used, or obtained by any unauthorized person, by any person in an unauthorized manner, or for an unauthorized purpose; (ii) Supplier knows or reasonably believes that an act or omission has adversely impacted the cybersecurity of the products or services provided to Company by Supplier or the physical, technical, administrative, or organizational safeguards protecting Supplier's systems or Company's systems holding Company Information; or (iii) Supplier receives any complaint, notice, or communication which relates directly or indirectly to (A) Supplier's handling of Company Information or Supplier's compliance with the data safeguards in this Agreement or applicable law in connection with Company Information or (B) the cybersecurity of the products or services provided to Company by Supplier.*

(b) **DESIGNATED REPRESENTATIVES AND NOTICES.** Article 15 of the Contract is hereby amended and restated in its entirety to read as follows:

In conjunction with each Release, each Party shall designate a representative authorized to act on its respective behalf and shall advise the other Party in writing of the name, address and telephone number of such designated representative, and shall inform the other Party of any subsequent change in such designation. All communications relating to the day-to-day activities under this Contract shall be exchanged between such designated representatives through any agreed form of communication.

Any formal Notice required to be delivered in writing under the terms of this Contract shall be delivered to the representative of the other Party as designated below. All formal written Notices shall be: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. The Parties' addresses for purposes of Notice shall be as set forth below:

If to Company: <u>PacifiCorp</u> <u>825 NE Mulnomah Street, Suite 1800</u> <u>Portland, OR 97232</u> Attention: <u>Legal Department</u> Email: _____ Telephone: <u>503-813-5000</u>	If to Supplier: <u>Hendrix Aerial Cable</u> <u>53 Old Wilton Rd</u> <u>Milford, NH 03055</u> Attention: <u>Mark Fallon</u> Email: <u>mfallon@marmonutility.com</u> Telephone: <u>425-829-8345</u>
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Either Party may change the name or address of the designated recipient of Notices by delivery of a Notice of such change as provided for in this Article.

Requested changes to Supplier's banking information must be independently verified with Supplier and may take up to 60 days to process. Company shall continue to use Supplier's previous banking information during the verification period unless an exception is approved by Company's Chief Financial Officer or designee. Company shall not be liable for late fees or interest on any late or missed payments due to Supplier's requested changes that could not be reasonably verified by Company. Changes to Supplier information will be confirmed by Company with the following Supplier staff:

Supplier Treasurer: \_\_\_\_\_

Name: Randy Clos

Title: Marmon Utility – VP of Finance

Address: 53 Old Wilton Rd

Milford, NH 03055

Telephone: 802-985-311

Supplier Website: Marmonutility.com

Supplier Senior Manager:

Name: Dave Shockley

Title: Director of Sales

Address: 53 Old Wilton Rd

Milford, NH 03055

Telephone: 614-633-7215

Supplier Senior Manager:

Name: Ken Woo

Title: VP & General Manager- Hendrix OHS

Address: 116 Route 101A

Amherst, NH 03031

Telephone: 603-732-2336

(c) **CYBER SECURITY.** Article 49 of the Contract is hereby amended and restated in its entirety to read as follows:

**49.0 DEFINITIONS**

"Confidential Information" shall have the meaning as defined in the Contract and in addition include any information that identifies an individual or customer of Company, including but not limited to customer account numbers, customer addresses, customer energy usage information, credit or bank account numbers, social security numbers, passport or driver's license numbers, or any information not otherwise classified as public information by Company.

**49.1 SCOPE OF THIS ARTICLE**

This Article applies to Supplier and its Personnel and Subcontractors that provide materials to the Company with associated services that may impact the confidentiality, integrity, or availability of the Company's networks, systems, software, Data, or Confidential Information for the term of the Contract.

**49.2 CYBER SECURITY CONTROLS**

- a. Supplier shall have and maintain security controls to protect the Company's networks, systems, software, Confidential Information, and Data that are no less rigorous than the latest published version of ISO/IEC 27001 – Information Security Management Systems–Requirements, and ISO/IEC 27002 – Code of Practice for International Security Management
- b. Supplier agrees to disclose to the Company known security vulnerabilities in hardware, software, and services provided under the Contract in a timely manner.

**49.3 OVERSIGHT OF COMPLIANCE**

Supplier shall:

- a. Allow Company to conduct an assessment, audit, examination, or review of Supplier's security controls to confirm Supplier's adherence to the terms of this Article, as well as any applicable laws, regulations, and industry standards, not more than once per year or upon notification of any Security Incident or complaint regarding Supplier's privacy and security practices. Company may elect to obtain the services of a mutually-agreeable third party to conduct this assessment, audit, examination, or review on behalf of Company. Company shall give Supplier no less than thirty (30) calendar days' notice of its intent to conduct such assessment, audit, examination, or review. As part of this assessment, audit, examination, or review, Company may review all controls in Supplier's physical and/or technical environment in relation to all Confidential Information being handled and/or hardware, software, or services being provided pursuant to this Contract. Supplier shall fully cooperate with such assessment by providing access to knowledgeable personnel, physical premises, documentation, infrastructure, application software, and systems relevant to the provision of hardware, software, or services under the Contract.

**49.4 SECURITY BREACH PROCEDURES; EQUITABLE RELIEF**

In the event of a Supplier, or Subcontractor Security Incident affecting the Company:

- a. Supplier shall:
  - (i) Notify the Company of the Security Incident as soon as practicable, but no later than 48 hours after Supplier becomes aware of it, by telephone and email; and
  - (ii) Provide the Company with the name and contact information for any Personnel who shall serve as Supplier's primary security contact and shall be available to assist the Company with Security Incident management, response, and recovery associated with the Security Incident.
- b. Immediately following Supplier's notification to the Company of a Security Incident, the Parties shall coordinate with each other to investigate such Security Incident. Supplier agrees to coordinate with Company in Company's handling of the matter, including: (i) assisting with any investigation and (ii) making available all relevant records and other materials required to comply with applicable law, regulation, industry standards, or otherwise reasonably required by Company.
- c. Supplier shall use best efforts to immediately remedy any Security Incident and prevent any further or recurrent Security Incident at Supplier's expense in accordance with applicable privacy laws, regulations, and standards. Supplier shall reimburse Company for actual reasonable costs incurred by Company in responding to, and mitigating damages caused by, any Security Incident, including all costs of notice and/or remediation pursuant to this section.
- d. Supplier shall fully cooperate at its own expense with Company in any litigation or other formal action deemed reasonably necessary by Company to protect its rights relating to the use, disclosure, protection, and maintenance of its Confidential Information and Data.
- e. Supplier acknowledges that any breach of Supplier's obligations set forth in this Article may cause Company substantial irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such a breach or threatened breach, Company is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which Company may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other available remedies at law or in equity, subject to any express exclusions or limitations in the Contract to the contrary.

**49.5 OBLIGATIONS ON TERMINATION AND TERMINATION ASSISTANCE**

- a. In addition to any other obligations that arise on termination or expiration of this Contract, the Parties agree that, on any expiration or termination of this Contract, upon completion of the delivery of the products and services to be provided under this Contract, or at any time upon Company's request, regardless of the circumstance:
  - (i) If Supplier has access to Company facilities or systems, Supplier shall immediately surrender to Company all access cards, security passes, passwords and other such devices granting access to any Work Site or to Company networks or computer systems; and

- (ii) If Supplier has Company Data, Supplier shall return any Company Data that is in its care, custody or control to Company in the format requested by Company and Supplier shall, after receiving Company's written confirmation that it can read the Data provided by Supplier, permanently delete any copies of the Data in Supplier's care, custody or control.
  - (iii) If Supplier has Company hardware or removable media, Supplier will return to Company all hardware and removable media provided by Company that contains Company Data. Company Data in such returned hardware and removable media may not be removed or altered in any way. The hardware should be physically sealed and returned via a bonded courier or as otherwise directed by Company. If the hardware or removable media containing Company Data is owned by Supplier or a third-party, a written statement detailing the destruction method used and the data sets involved, the date of destruction and the entity or individual who performed the destruction will be sent to a designated Company security representative within fifteen (15) calendar days after completion of the delivery of the products and services to be provided under this Contract, or at any time upon Company's request. Supplier's destruction or erasure of Company Data pursuant to this Article must be in compliance with NIST or ISO Standards.
- b. Prior to the expected expiration or termination of a Contract Document by either Party for any reason, or prior to the expected expiration or termination of this Contract for any reason, including the default of the terms of a Contract Document or a default under this Contract, Supplier agrees to provide Company with the reasonable assistance services requested by Company. These services will include, at a minimum, converting data, providing parallel services until Company has transitioned to a new system, providing on-site technical support, cooperating with Company or its designated vendor in developing required interfaces, and such other assistance services as shall be necessary or appropriate to facilitate, without material or extended interruption to the Services, the orderly transition of the Services to Company or its new provider of services. The Parties agree that assistance services may extend beyond the Term as reasonably required by Company.

#### **49.6 PROHIBITED VENDORS**

Supplier may not use in the provision of Work or Services to Company, directly or indirectly using subcontractors, the services, products, component pieces or sub-assemblies of any company identified by Company or by the U.S. Government and/or regulatory authorities as a security threat (collectively, the "Prohibited Vendors"), including without limitation the companies identified by Company in Exhibit G and by the U.S. Department of Commerce (which are currently posted on the internet at <https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear> and as published in 15 CFR, Subchapter C, part 744, Supplement No. 4). Supplier is responsible for being familiar with the Prohibited Vendors, including additional Prohibited Vendors that Company may identify by Notice to Supplier and that the U.S. Government may identify from time to time during the term of this Contract. If Supplier fails to abide by the requirements of this Section, Company will provide Supplier with Notice and a 30 day opportunity to cure. Continued failure to abide by this requirement will be considered a material breach of this Contract.

**(d) OFFICE OF FOREIGN ASSETS CONTROL SANCTIONS LISTS; STATE OR GOVERNMENT OWNED ENTERPRISES OR CORPORATIONS CYBERSECURITY and CALIFORNIA CONSUMER PRIVACY ACT.** Two new articles, Article 57 – Office of Foreign Assets Control Sanctions Lists; State or Government Owned Enterprises or Corporations Cybersecurity and Article 58 – California Consumer Privacy Act are hereby added to the Contract and read as follows:

#### **ARTICLE 57. OFFICE OF FOREIGN ASSETS CONTROL SANCTIONS LISTS; STATE OR GOVERNMENT OWNED ENTERPRISES OR CORPORATIONS CYBERSECURITY**

57.1 Supplier warrants that neither Supplier nor a) any parent, affiliate, or subsidiary to Supplier, or b) any officer, director, employee, agent, lobbyist, or representative of Supplier is on any sanction list maintained and published by the U.S. Department of the Treasury's Office of Foreign Assets Control ("OFAC"), including but not limited to the Specially Designated Nationals and Blocked Persons List and Consolidated Sanctions List maintained

and published by OFAC and available at <https://www.treasury.gov/resource-center/sanctions/Pages/default.aspx> (collectively the “OFAC sanctions lists”). Supplier further warrants, acknowledges, and agrees that:

- a. Neither Supplier nor any a) any parent, affiliate, or subsidiary to Supplier, or b) any officer, director, employee, agent, lobbyist, or representative of Supplier is operating or acting under any alias or pseudonym to avoid detection as a person or entity on any of OFAC sanctions lists;
- b. Supplier is prohibited from and shall not, either directly or indirectly, involve or engage in any manner any person or entity that is on any of the OFAC sanctions lists in the performance of this Contract, whether as an officer, director, employee, agent, lobbyist, representative, contractor, subcontractor, vendor, consultant, supplier, materialman, or any other role or relationship of any kind; and
- c. Supplier’s obligations under this Article are ongoing, and Supplier shall remain up-to-date with recent actions and updates by OFAC and shall immediately notify Company at any time it learns that a representation made in this Article is no longer accurate or that Supplier otherwise has been or is in violation of this Article.
- d. The warranties, representations, and obligations of this Article are material to Company’s decision to enter into this Contract, and any failure or violation of same is grounds for termination for cause by Company as a material breach of a provision of the Contract.

Supplier further agrees that it will fully comply and cooperate with Company in any inquiry, request, or investigation initiated by OFAC arising from or related to Supplier’s performance under this Contract and will defend, indemnify, and hold harmless Company, its agents, representatives, and employees of and from all fines, fees, penalties, or other liabilities or damages of any kind arising from or related to any failure or violation of Supplier’s warranties, representations, and obligations under this Article. This obligation is in addition to and not in derogation of any other obligation Supplier may have to defend, indemnify, or hold harmless Company, its agents, representatives, and employees under this Contract.

57.2 Supplier warrants that neither Supplier nor any parent, affiliate, or subsidiary to Supplier has fifty-percent (50%) or more equity ownership by a state-owned enterprise or government owned-corporation acting on behalf of the following foreign countries (the “prohibited countries”):

Afghanistan	Crimea Region of Ukraine	Russia	Venezuela
Angola	Iran		Somalia
Yemen	Chad		Iraq
Sudan	China		Libya
Syria	Congo		North Korea
Uganda			

Supplier further warrants, acknowledges, and agrees that:

- a. Supplier is prohibited from and shall not, either directly or indirectly, involve or engage in any manner any entity with fifty-percent (50%) or more equity ownership by a state-owned enterprise or government owned-corporation acting on behalf of any of the prohibited countries in the performance of this Contract, whether as a contractor, subcontractor, vendor, consultant, supplier, materialman, or any other role or relationship of any kind, without first fully disclosing said involvement or engagement to Company;
- b. Supplier’s obligations under this Article are ongoing, and Supplier shall immediately notify Company in the event a state-owned enterprise or government owned-corporation acting on behalf of any of the prohibited countries attains or acquires fifty-percent (50%) or more equity ownership in Supplier, or any parent, affiliate, or subsidiary to Supplier, or at any time Supplier learns a state-owned enterprise or government owned-corporation acting on behalf of any of the prohibited countries has or has attained or acquired a fifty-percent (50%) or more equity ownership in any entity directly or indirectly involved or engaged by Supplier in the performance of this Contract;
- c. In the event of such disclosure or notice, Company shall have the right, in its sole discretion, to terminate the Contract for cause by Company as a material breach of a provision of the Contract, or, in the event the disclosure involves an entity other than Supplier or any parent, affiliate, or subsidiary to Supplier, Supplier shall, in addition to the right to termination, have the alternative right, in its sole discretion, to reject said entity’s further involvement or engagement in the performance of the Contract, in which case Supplier shall

immediately terminate said entity's involvement or engagement.

57.3 Supplier acknowledges and agrees that the warranties, representations, and obligations of this Article are material to Company's decision to enter into this Contract, and any failure or violation of same is grounds for termination for cause by Company as a material breach of a provision of the Contract.

(e) **PROHIBITED VENDORS.** Exhibit G – Prohibited Vendors which is attached to this Amendment is hereby added to the Exhibits of the Contract and included in the Contract Documents.

2. Miscellaneous.

(a) Ratification. Except as specifically amended by this Amendment, the Contract shall remain in full force and effect and is hereby ratified and confirmed. This Amendment shall be construed as one with the Contract, and the Contract shall, where the context requires, be read and construed throughout so as to incorporate this Amendment. All documents executed in connection with the Contract shall remain in full force and effect and are hereby ratified and confirmed with respect to the Contract, as amended by this Amendment.

(b) Entire Agreement. This Amendment, together with the Contract and the other documents referred to in, or executed in connection with, the Contract, supersedes all prior agreements and understandings, written or oral, between Supplier and PacifiCorp with respect to the subject matter of this Amendment.

(c) Counterparts. This Amendment may be executed in any number of counterparts, all of which, when taken together, shall constitute one and the same instrument and the parties to this Amendment may execute this Amendment by signing any such counterpart. Signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signatures are physically attached to the same documents.

(d) Effective Date. This Amendment shall be deemed effective upon the date of full execution by authorized representatives of both PacifiCorp and Supplier.



IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed on their respective behalf, by their respective officers thereunto duly authorized.

**COMPANY:**

PACIFICORP

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SUPPLIER:**

MARMON UTILITY, LLC DBA HENDRIX AERIAL CABLE SYSTEMS

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**EXHIBIT G**

**PROHIBITED VENDORS AND VENDOR REGIONS**

In addition to the entities identified in lists maintained by applicable United States regulatory authorities, the following entities are Prohibited Vendors and Vendor Regions:

Hytera Communications Corporation  
Hangzhou Hikvision Digital Technology Company  
Dahua Technology Company  
Da Jiang Innovations (DJI)  
AO Kaspersky Lab, ZTE Corporation  
Huawei Technologies Co. Inc.  
Xinjiang Production and Construction Corps  
Dago New Energy Corporation  
GCL-Poly Energy Holdings Ltd  
Xinte Energy Company  
East Hope Group  
Xinjiang Uyghur Autonomous Region, China