

FS Agreement No. 12-PA-11090700-010
Cooperator Agreement No. _____

**MASTER
PARTICIPATING AGREEMENT
Between The
HOUGHTON KEWEENAW CONSERVATION DISTRICT
And The
USDA, FOREST SERVICE
OTTAWA NATIONAL FOREST**

This MASTER PARTICIPATING AGREEMENT is hereby made and entered into by and between the Houghton Keweenaw Conservation District, hereinafter referred to as "HKCD," and the USDA, Forest Service, Ottawa National Forest hereinafter referred to as the "U.S. Forest Service," under the authority: (1) Cooperative Funds and Deposits Act of December 12, 1975, Pub.L. 94-148, 16 U.S.C. 565a1 – a3, as amended by the Consolidated Appropriations Act of 2008, Pub.L. 110-161, and the Omnibus Public Land Management Act, Pub.L. 111-11, Sec. 3001; (2) the Granger-Thye Act of April 24, 1950; and (3) Wyden Amendment, Section 323(a) of the Department of Interior and Related Agencies Appropriations Act, 1999, as included in Pub.L. 105-277, Div. A., Section 101 (e), as amended by Pub.L. 109-54, Sec. 434, and the Omnibus Public Land Management Act, Pub.L. 111-11, Sec. 3001.

Background: In March 2011, several organizations met in Houghton, Michigan, to discuss the formation of a new Cooperative Weed Management Area, covering Houghton, Keweenaw, and Baraga Counties in Michigan. Keweenaw Invasive Species Management Area (KISMA). We are all interested in preventing the spread of non-native invasive species. The Houghton Keweenaw Conservation District will act as the signatory official and serve as the fiscal administrator for any and all Supplemental Project Agreements (SPA's) issued on behalf of any and all parties against this master agreement.

Title: KISMA Master Participating Agreement

I. PURPOSE

The purpose of this agreement is to document the cooperation between the parties to facilitate a cost-effective and coordinated management of non-native invasive species throughout the KISMA working area and across jurisdictional boundaries with the objective of achieving healthy and productive natural ecosystems in accordance with the following provisions and any incorporated Supplemental Project Agreement(s).

II. STATEMENT OF MUTUAL BENEFITS AND INTERESTS:



It is mutually beneficial to enter into this agreement to establish a framework for the development of individual Supplemental Project Agreements (SPAs) for the parties to work together on projects to accomplish their mutual goals.

The U.S. Forest Service and HKCD are both concerned with natural resources on lands within their jurisdiction, including threats to natural areas from the spread of non-native invasive species (NNIS). Since NNIS originate from both private and public lands, and since infestations often occur on adjacent jurisdictions, it is in the interest of all parties to this agreement to work together in a cost effective manner to locate and treat infestations and prevent their spread.

This agreement will:

Provide a more efficient way of handling, controlling and communicating about non-native invasive species infestations in the geographic area covered by this Agreement.

Pool knowledge and resources that will help achieve better control of non-native invasive species while improving working relationships with the partners, organization members, and members of the public served by each.

Promote education of public and private land and water managers, owners, organization members, and the general public regarding non-native invasive species.

Support methods of control that will benefit all partners and publics in the Agreement area.

Provide for public benefit by helping to avoid or minimize the negative impacts of non-native invasive species on the natural resources and economy of the Upper Peninsula of Michigan.

Area covered:

The area covered by this Agreement includes all of Houghton, Keweenaw, and Baraga Counties, in the Upper Peninsula of Michigan.

In consideration of the above premises, the parties agree as follows:

III. HOUGHTON KEWEENAW CONSERVATION DISTRICT SHALL:

- A. LEGAL AUTHORITY. HKCD shall have the legal authority to enter into this agreement, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the nonfederal share of project costs, when applicable.
- B. Serve as fiscal manager for KISMA. Receive and manage funds for KISMA projects, including projects specified as Supplemental Project Agreements to this Master Agreement.



- C. Meet as a member of the KISMA at least once annually to review and coordinate invasive species management activities. Strategies and priorities will be established based on the non-native invader species and their potential for further spread and subsequent damage.
- D. Allow for the exchange of personnel, equipment, supplies, and/or contract crews throughout the KISMA. Any exchanges must be approved and coordinated by the parties involved via the annual operating plan and supplemental agency documentation as necessary (e.g. Supplemental Project Agreement (SPA)). Individual party participants may elect to retain any portion of their own personnel, equipment, supplies, and contract crews within their jurisdiction.
- E. Seek and allow any participants to contribute to the management of non-native invasive species within the KISMA through education programs, research, inventory and monitoring, grants and fundraising, and citizen's participation programs.
- F. Elect to manage invasive species within their own jurisdiction in whole or part through either utilizing the KISMA or utilizing their own personnel, equipment, and supplies.
- G. Allow participating Federal agencies' personnel, equipment, and supplies to be used in the management of invasive species on non-federal or state ownerships within the KISMA. These cooperative activities will be approved in the annual operating plan and would only be carried out with the full acknowledgment of the agency or participating organization receiving the activities.
- H. Assist in mapping current infestations and advising the KISMA of new infestations.
- I. Insure management of invasive species will be integrated and incorporate effective and safe control measures. Integrated control measures may include prevention measures, education, awareness programs, mechanical methods, biological controls, plant competition, fire, and herbicides.
- J. Submit an annual calendar year performance report, as detailed in Section V.P., by January 31st of each year.

IV. THE U.S. FOREST SERVICE SHALL:

- A. Work cooperatively with the partner to facilitate the purpose of this agreement stated in Item I (Purpose).
- B. Follow the same guidelines identified for the HKCD, listed in Part III: "Houghton Keweenaw Conservation District Shall," with the exception of being the KISMA fiscal manager.



V. IT IS MUTUALLY UNDERSTOOD AND AGREED BY AND BETWEEN THE PARTIES THAT:

- A. PRINCIPAL CONTACTS. Individuals listed below are authorized to act in their respective areas for matters related to this agreement.

Principal Cooperator Contacts:

Cooperator Program Contact	Cooperator Administrative Contact
Name: Sue Haralson, Administrator Address: 600 E. Lakeshore Dr., #204 City, State, Zip: Houghton, MI 49931 Telephone: 906-482-0214 FAX: 906-482-6074 Email: sue.haralson@mi.nacdnet.net	Name: Sue Haralson, Administrator Address: 600 E. Lakeshore Dr., #204 City, State, Zip: Houghton, MI 49931 Telephone: 906-482-0214 FAX: 906-482-6074 Email: sue.haralson@mi.nacdnet.net

Principal U.S. Forest Service Contacts:

U.S. Forest Service Program Manager Contact	U.S. Forest Service Administrative Contact
Name: Ian Shackelford Address: E 6248 US 2 City, State, Zip: Ironwood, MI 49938 Telephone: 906-932-1330 x331 FAX: 906-932-0122 Email: ishackelford@fs.fed.us	Name: Cathy Ansami Address: E 6248 US 2 City, State, Zip: Ironwood, MI 49938 Telephone: 906-932-1330 x340 FAX: 906-932-0122 Email: cansami@fs.fed.us

- B. AVAILABILITY FOR CONSULTATION. Both parties will make themselves available at mutually agreeable times for continuing consultation to discuss the conditions covered by this agreement and agree to actions essential to fulfill its purposes.
- C. SUPPLEMENTAL PROJECT AGREEMENTS (SPA). Nothing in this agreement obligates either party to offer or accept any project proposals under this agreement. Any projects added to this agreement must be by mutual consent of the parties through a specific SPA.
- D. U.S. FOREST SERVICE LIABILITY. The U.S. Forest Service shall not be liable to HKCD or third parties for any damages incident to the performance of this agreement.
- E. NOTICES. Any communications affecting the operations covered by this agreement given by the U.S. Forest Service or HKCD are sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:



To the U.S. Forest Service Program Manager, at the address specified in the agreement.

To HKCD, at HKCD's address shown in the agreement or such other address designated within the agreement.

Notices are effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- F. **PARTICIPATION IN SIMILAR ACTIVITIES.** This agreement in no way restricts the U.S. Forest Service or HKCD from participating in similar activities with other public or private agencies, organizations, and individuals.
- G. **ENDORSEMENT.** Any of HKCD's contributions made under this agreement do not by direct reference or implication convey U.S. Forest Service endorsement of HKCD's products or activities.
- H. **USE OF U.S. FOREST SERVICE INSIGNIA.** In order for HKCD to use the U.S. Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted from the U.S. Forest Service's Office of Communications. A written request must be submitted and approval granted in writing by the Office of Communications (Washington Office) prior to use of the insignia.
- I. **NON-FEDERAL STATUS FOR COOPERATOR PARTICIPANT LIABILITY.** HKCD agree(s) that any of their employees, volunteers, and program participants shall not be deemed to be Federal employees for any purposes including Chapter 171 of Title 28, United States Code (Federal Tort Claims Act) and Chapter 81 of Title 5, United States Code (OWCP), as HKCD hereby willingly agree(s) to assume these responsibilities.
Further, HKCD shall provide any necessary training to HKCD's employees, volunteers, and program participants to ensure that such personnel are capable of performing tasks to be completed. HKCD shall also supervise and direct the work of its employees, volunteers, and participants performing under this agreement.
- J. **MEMBERS OF U.S. CONGRESS.** Pursuant to 41 U.S.C. 22, no United States member of, or United States delegate to, Congress shall be admitted to any share or part of this agreement, or benefits that may arise therefrom, either directly or indirectly.
- K. **NONDISCRIMINATION.** The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with



disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

L. **ELIGIBLE WORKERS.** HKCD shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 USC 1324a). HKCD shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or SPA awarded under this agreement.

M. **STANDARDS FOR FINANCIAL MANAGEMENT.**

1. Financial Reporting

HKCD shall provide complete, accurate, and current financial disclosures of the project or program in accordance with any financial reporting requirements, as set forth in the financial provisions.

2. Accounting Records

HKCD shall continuously maintain and update records identifying the source and use of funds. The records shall contain information pertaining to the agreement, authorizations, obligations, unobligated balances, assets, outlays, and income.

3. Internal Control

HKCD shall maintain effective control over and accountability for all U.S. Forest Service funds, real property, and personal property assets. HKCD shall keep effective internal controls to ensure that all United States Federal funds received are separately and properly allocated to the activities described in the agreement. HKCD shall adequately safeguard all such property and shall ensure that it is used solely for authorized purposes.

4. Source Documentation

HKCD shall support all accounting records with source documentation. These documentations include, but are not limited to, cancelled checks, paid bills, payrolls, contract and subgrant/contract documents, and so forth.

N. **OVERPAYMENT.** Any funds paid to HKCD in excess of the amount entitled under the terms and conditions of this agreement constitute a debt to the Federal Government. The following must also be considered as a debt or debts owed by HKCD to the U.S. Forest Service:



- Any interest or other investment income earned on advances of agreement funds; or
- Any royalties or other special classes of program income which, under the provisions of the agreement, are required to be returned;

If this debt is not paid according to the terms of the bill for collection issued for the overpayment, the U.S. Forest Service may reduce the debt by:

1. Making an administrative offset against other requests for reimbursement.
2. Withholding advance payments otherwise due to HKCD.
3. Taking other action permitted by statute (31 U.S.C. 3716 and 7 CFR, Part 3, Subpart B).

Except as otherwise provided by law, the U.S. Forest Service may charge interest on an overdue debt.

- O. AGREEMENT CLOSEOUT. HKCD shall close out the agreement within 90 days after expiration or notice of termination.

Any unobligated balance of cash advanced to HKCD must be immediately refunded to the U.S. Forest Service, including any interest earned in accordance with 7 CFR 3016.21, 7 CFR 3019.22, or other relevant law or regulation.

Within a maximum of 90 days following the date of expiration or termination of this agreement, all financial performance and related reports required by the terms of the agreement must be submitted to the U.S. Forest Service by HKCD.

If this agreement is closed out without audit, the U.S. Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

- P. PROGRAM PERFORMANCE REPORTS. HKCD shall monitor the performance of the agreement activities to ensure that performance goals are being achieved.

Performance reports must contain information on the following:

- A comparison of actual accomplishments to the goals established for the period. Where the output of the project can be readily expressed in numbers, a computation of the cost per unit of output may be required if that information is useful.
- Reason(s) for delay if established goals were not met.
- Additional pertinent information including, when appropriate, analysis and explanation of cost overruns or high unit costs.



HKCD shall submit annual performance reports to the U.S. Forest Service Program Manager. These reports are due 30 days after the reporting period. The final performance report must be submitted either with HKCD's final payment request, or separately, but not later than 90 days from the expiration date of the agreement.

- Q. RETENTION AND ACCESS REQUIREMENTS FOR RECORDS. HKCD shall retain all records pertinent to this agreement for a period of no less than 3 years from the expiration or termination date. As used in this provision, "records" includes books, documents, accounting procedures and practice, and other data, regardless of the type or format. HKCD shall provide access and the right to examine all records related to this agreement to the U.S. Forest Service Inspector General, or Comptroller General or their authorized representative.

If any litigation, claim, negotiation, audit, or other action involving the records has been started before the end of the 3-year period, the records must be kept until all issues are resolved, or until the end of the regular 3-year period, whichever is later.

Records for nonexpendable property acquired in whole or in part, with Federal funds must be retained for 3 years after its final disposition.

HKCD shall provide access to any project site(s) to the U.S. Forest Service or any of their authorized representatives. The rights of access in this section shall not be limited to the required retention period but shall last as long as the records are kept.

- R. FREEDOM OF INFORMATION ACT (FOIA). Public access to agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552).
- S. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All cooperators, their employees, volunteers, and contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs when driving while on official Government business or when performing any work for or on behalf of the Government.
- T. PUBLIC NOTICES. It is the U.S. Forest Service's policy to inform the public as fully as possible of its programs and activities. HKCD is/are encouraged to give public notice of the receipt of this agreement and, from time to time, to announce progress and accomplishments. Press releases or other public notices should include a statement substantially as follows:



"The Ottawa National Forest (ONF) of the U.S. Forest Service, with funding from the Great Lakes Restoration Initiative, supports cooperative work in the Keweenaw Invasive Species Management Area (KISMA). The partnership between the ONF, Houghton Keweenaw Conservation District, and other members will help KISMA carry out its mission of non-native invasive species (NNIS) education, detection, and eradication in Houghton, Keweenaw, and Baraga counties in the Upper Peninsula of Michigan."

HKCD may call on the U.S. Forest Service's Office of Communication for advice regarding public notices. HKCD is/are requested to provide copies of notices or announcements to the U.S. Forest Service Program Manager and to the U.S. Forest Service's Office of Communications as far in advance of release as possible.

- U. PROPERTY IMPROVEMENTS. Improvements placed by HKCD on National Forest System land at the direction or with the approval of the U.S. Forest Service becomes the property of the United States. These improvements are subject to the same regulations and administration of the U.S. Forest Service as other National Forest improvements. No part of this agreement entitles HKCD to any interest in the improvements, other than the right to use them under applicable U.S. Forest Service regulations.
- V. CONTRACT REQUIREMENTS. Any contract under this agreement must be awarded following HKCD's established procurement procedures, to ensure free and open competition, and avoid any conflict of interest (or appearance of a conflict). HKCD must maintain cost and price analysis documentation for potential U.S. Forest Service review. HKCD is/are encouraged to utilize small businesses, minority-owned firms, and women's business enterprises.

Additionally, federal wage provisions (Davis-Bacon or Service Contract Act) are applicable to any contract developed and awarded under this agreement where all or part of the funding is provided with U.S. Forest Service funds. Davis-Bacon wage rates apply on all public works contracts in excess of \$2,000 and Service Contract Act wage provisions apply to service contracts in excess of \$2,500.

- W. REMEDIES FOR COMPLIANCE RELATED ISSUES. If HKCD materially fail(s) to comply with any term of the agreement, whether stated in a Federal statute or regulation, an assurance, or the agreement, the U.S. Forest Service may take one or more of the following actions:
1. Temporarily withhold cash payments pending correction of the deficiency by the HKCD or more severe enforcement action by the U.S. Forest Service;
 2. Disallow (that is, deny both use of funds and matching credit for) all or part of the cost of the activity or action not in compliance;



3. Wholly or partly suspend or terminate the current agreement for HKCD's program;
 4. Withhold further awards for the program, or
 5. Take other remedies that may be legally available, including debarment procedures under 7 CFR part 3017.
- X. TERMINATION BY MUTUAL AGREEMENT. This agreement may be terminated, in whole or part, as follows:

1. When the U.S. Forest Service and HKCD agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated.
2. By 30 days written notification by HKCD to the U.S. Forest Service setting forth the reasons for termination, effective date, and in the case of partial termination, the portion to be terminated.

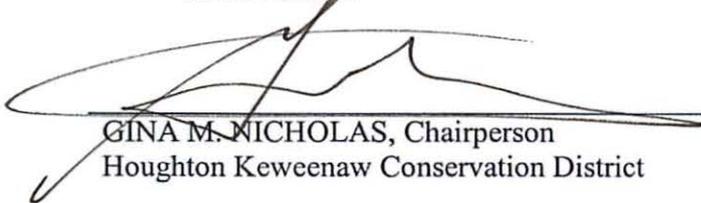
If, in the case of a partial termination, the U.S. Forest Services determines that the remaining portion of the agreement will not accomplish the purposes for which the agreement was made, the U.S. Forest Service may terminate the agreement in its entirety.

Upon termination of an agreement, HKCD shall not incur any new obligations for the terminated portion of the agreement after the effective date, and shall cancel as many outstanding obligations as possible. The U.S. Forest Service shall allow full credit to HKCD for the United States Federal share of the non-cancelable obligations properly incurred by HKCD up to the effective date of the termination. Excess funds must be refunded within 60 days after the effective date of termination.

- Y. ALTERNATE DISPUTE RESOLUTION – PARTNERSHIP AGREEMENT. In the event of any issue of controversy under this agreement, the parties may pursue Alternate Dispute Resolution procedures to voluntarily resolve those issues. These procedures may include, but are not limited to conciliation, facilitation, mediation, and fact finding.
- Z. DEBARMENT AND SUSPENSION. HKCD shall immediately inform the U.S. Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should HKCD or any of their principals receive a transmittal letter or other official Federal notice of debarment or suspension, then they shall notify the U.S. Forest Service without undue delay. This applies whether the exclusion, debarment, or suspension is voluntary or involuntary.



- AA. TERMINATION FOR COLLECTION AGREEMENTS. Either party, in writing, may terminate this agreement in whole, or in part, at any time before the date of expiration. The U.S. Forest Service shall not incur any new obligations for the terminated portion of this agreement after the effective date of termination and shall cancel as many obligations as possible. Full credit must be allowed for U.S. Forest Service expenses and all non-cancelable obligations properly incurred up to the effective date of termination. Excess funds must be refunded within 60 days after the effective termination date..
- BB. MODIFICATIONS. Modifications within the scope of this agreement must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change. The U.S. Forest Service is not obligated to fund any changes not properly approved in advance.
- CC. COMMENCEMENT/EXPIRATION DATE. This agreement is executed as of the date of the last signature and is effective through 1/31/2017 at which time it will expire,
- DD. AUTHORIZED REPRESENTATIVES. By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this agreement. In witness whereof, the parties hereto have executed this agreement as of the last date written below.

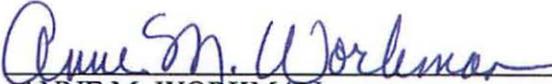


 GINA M. NICHOLAS, Chairperson
 Houghton Keweenaw Conservation District
 Date 3-13-2012



 ANTHONY V. SCARDINA, Forest Supervisor
 U.S. Forest Service, Ottawa National Forest
 Date 3/16/2012

The authority and format of this agreement have been reviewed and approved for signature.



 ANNE M. WORKMAN
 U.S. Forest Service Grants & Agreements Specialist
 Date 3/7/12

**Burden Statement**

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0596-0217. The time required to complete this information collection is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at 202-720-2600 (voice and TDD).

To file a complaint of discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW, Washington, DC 20250-9410 or call toll free (866) 632-9992 (voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice). USDA is an equal opportunity provider and employer.