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Department of MANAGEMENT SERVICES
We serve those who serve Florida

State Term Contract
No. 25100000-23-STC
For
Motor Vehicles

This Contract is between the State of Florida, Department of Management Services (Department), an agency of the State of Florida, and **Tropical Ford, Inc.** (Contractor), collectively referred to herein as the "Parties."

Accordingly, for the good and mutual consideration hereby acknowledged, the Parties agree as follows:

I. Initial Contract Term.

The Initial Contract Term shall be for two years. The Initial Contract Term shall begin on May 17, 2023. The Contract shall expire on May 16, 2025, unless terminated earlier in accordance with the Special Contract Conditions and Additional Special Contract Conditions.

II. Renewal Term.

Upon mutual written agreement, the Parties may renew this Contract for one year, in whole or in part, pursuant to the incorporated Special Contract Conditions.

III. Contract.

As used in this document, "Contract" (whether or not capitalized) shall, unless the context requires otherwise, include this document and all incorporated Exhibits, which set forth the entire understanding of the Parties and supersedes all prior agreements. All modifications to this Contract must be in writing and signed by all Parties.

All Exhibits listed below are incorporated in their entirety into, and form part of, this Contract. The Contract document and Exhibits shall have priority in the following order:

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a) This Contract document
b) Exhibit A, Scope of Work
c) Exhibit B, Cost Sheet (Group 1 – 7)
d) Exhibit C, STC Additional Special Contract Conditions
e) Exhibit D, Special Contract Conditions
f) Exhibit E, Price Quote Form (PQF)
g) Exhibit F, Acknowledgement of Order Form

IV. Contract Management.

Department's Contract Manager:
Christopher McMullen
Division of State Purchasing
Florida Department of Management Services
4050 Esplanade Way, Suite 360
Tallahassee, Florida 32399-0950
Telephone: (850) 922-9867
Email: Christopher.McMullen@dms.fl.gov

Contractor's Contract Manager:
Jeremy Swain
Tropical Ford, Inc.
9900 S. Orange Blossom Trail
Orlando, FL 32837
Telephone: (407) 851-3800 ext. 305
Email: WorkTrucks@TropicalFord.com

This Contract is executed by the undersigned officials as duly authorized. This Contract is not valid and binding on all Parties until signed and dated by both Parties.

Tropical Ford, Inc.

DocuSigned by:
Jeremy Swain
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Jeremy Swain

5/15/2023 | 4:44 PM EDT

Date:

STATE OF FLORIDA, DEPARTMENT OF MANAGEMENT SERVICES

DocuSigned by:
Pedro Allende
5E01A0D369ED47C...

Secretary, Pedro Allende

5/16/2023 | 1:02 PM EDT

Date:

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Exhibit A
Scope of Work

1. Purpose

To provide Customers with new and unused Motor Vehicles on a statewide basis, pursuant to the terms set forth in this Scope of Work. Contractors shall provide Motor Vehicles and applicable Options in accordance with the scope contained herein. All State Agencies shall comply with section 287.151, Florida Statutes, when purchasing under this Contract. The Motor Vehicles offered under the Contract shall be classified under the following Groups and Sub-Groups, which are listed and described as follows:

- Group 1: Law Enforcement Vehicles
  - Sub-Group A: Police Pursuit Vehicles
  - Sub-Group B: Special Service Vehicles
  - Sub-Group C: Transport Vans
  - Sub-Group D: Non-Specialized Vehicles for Law Enforcement Use Only
  - Sub-Group E: Motorcycles
- Group 2: Sedans and Hatchbacks
  - Sub-Group A: Sedans
  - Sub-Group B: Hatchbacks
- Group 3: Minivans and Vans
  - Sub-Group A: Minivans
  - Sub-Group B: Vans
  - Sub-Group C: Cutaways/Chassis Cabs
- Group 4: Sport Utility Vehicles
  - Sub-Group A: Crossover Sport Utility Vehicles
  - Sub-Group B: Traditional Sport Utility Vehicles
- Group 5: Light Duty Trucks
  - Sub-Group A: Compact and Mid-Size Pickup Trucks
  - Sub-Group B: Full-Size Pickup Trucks
- Group 6: Medium Duty Trucks
  - Sub-Group A: Pickup Trucks
  - Sub-Group B: Chassis Cabs
- Group 7: Low Speed Vehicles

2. Definitions

Definitions contained in section 287.012, Florida Statutes (F.S.); Rule 60A-1.001, Florida Administrative Code (F.A.C.); Attachment D, Special Contract Conditions; and the PUR 1001, General Instructions to Respondents (10/06), are incorporated by reference. In the event of a conflict, the definitions listed in this section supersede the incorporated definitions for the purposes of this Scope of Work. All definitions apply in both their singular and plural sense.

Brand – A particular name under which a Motor Vehicle or Option is sold by a Manufacturer. Examples include, but are not limited to: Ford, GMC, Chevrolet, Nissan, Toyota, etc.

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Business Day – Monday through Friday, inclusive, except for those holidays specified in section 110.117, Florida Statutes, from 8:00 a.m. to 5:00 p.m. at the Customer's location.

Commodity – As defined in section 287.012, Florida Statutes.

Commodity Code – The State's numeric code for classifying Commodities and contractual services which meet specific requirements, specifications, terms, and conditions herein. Florida has adopted the United Nations Standard Products and Services Code (UNSPSC) for classifying Commodities and services.

Confidential Information – Information that is trade secret or otherwise confidential or exempt from disclosure under Florida or federal law.

Contract – The written agreement between the Department and the Contractor resulting from ITB No. 23-25100000-ITB.

Contract Manager – The representative designated by the Department who will oversee all aspects of the Contract, monitor performance expectations, and serve as the primary point of contact for the Contractor.

Contractor – A Vendor that enters into a Contract with the Department as a result of receiving an award from ITB No. 23-25100000-ITB. A Contractor can be a Manufacturer or Dealer.

Cost – The actual price the Contractor paid for the Model and applicable Options from the Manufacturer including any delivery fees. Any price changes that occur during the manufacturing, ordering, or delivery process must be approved by the Customer.

Cost Plus Percentage – The percentage the Contractor is allowed to charge above the Cost of the Model and applicable Options.

Customer – A State agency or Eligible User.

Dealer – A Manufacturer's certified dealer who has been authorized by the Manufacturer to market, sell, provide, and service the Models or Options from the Manufacturer. Dealers may be Contractor-owned and -controlled, (in whole or in part) or independently owned and controlled.

Department – The Department of Management Services, a State agency.

Eligible User – As defined in Rule 60A-1.001, Florida Administrative Code.

Free on Board (FOB) Destination – A shipping method as defined in section 672.319(1)(b), Florida Statutes.

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Group – A series of Models with applicable Commodity Codes, which are described in this Scope of Work and Attachment C, Cost Sheet (Group 1 – 7). A Group may or may not include Sub-Groups.

Manufacturer – The original producer of a Motor Vehicle or Option, which may be sold under a Brand name. Examples include, but are not limited to: Ford Motor Company, General Motors (GM), Nissan Motor Corporation, Toyota Motor Corporation, etc.

Manufacturer's Last Order Date – The final date the Manufacturer stops accepting orders for a Model, either for a specific production year or overall (i.e., the discontinuation of a Model).

Manufacturer's Suggested Retail Price (MSRP) – The Manufacturer's recommended retail selling price, list price, published price, or other usual and customary price that would be paid by the purchaser for specific Commodities or services without the benefit of the Contract.

Model – A particular name used to identify a collection of Motor Vehicles that are sold under the same Brand name and are similar in style and appearance. Examples include, but are not limited to, Ford F-150, GMC Sierra, Chevrolet Suburban, Nissan Titan, Toyota Corolla, etc.

Motor Vehicle – A specific vehicle that meets the definition of "Motor vehicle" contained in section 320.01(1), Florida Statutes, or a specific vehicle that meets the definition of "Low-speed vehicle" as contained in section 320.01(41), Florida Statutes. The term includes all Options that are attached to or provided with the vehicle when it is manufactured. The Cost Plus Percentage shown in Attachment C, Cost Sheet (Group 1 – 7), shall apply to the Cost for the Motor Vehicle, regardless of whether any Options were specifically requested by the Customer or are considered "standard" or "optional" for the trim level ordered by the Customer.

Options – Options which meet the requirements, terms, and conditions herein, and may be installed to, uninstalled from, or provided with or separately from the Motor Vehicle by the Manufacturer or Dealer, as specified, ordered, legal, customary, reasonable, and prudent in the industry. Options include the following types:

- Non-Original Equipment Manufacturer (OEM) Option – A new and unused Option intended for the Motor Vehicle that is produced by a party other than the OEM. May also be referred to as an aftermarket Option.

- OEM Option - A new and unused Option intended for the Motor Vehicle that is produced by the OEM.

State – The State of Florida.

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Sub-Group – A specific series of Models within a Group, which are described in this Scope of Work and Attachment C, Cost Sheet (Group 1 – 7). A Group may or may not include Sub-Groups.

3. Minimum Specifications and Standards

The Contractor shall ensure all Motor Vehicles and Options offered under this Contract comply with the following:

a. Designed, constructed, equipped, assembled, and installed to be fully suitable for their intended use, purpose, and service pursuant to this Scope of Work;

b. New and unused (except as specified in the Transportation and Delivery section of this Scope of Work), for the Manufacturer's latest Model year available,of current or recent production, and of the latest available design and construction;

c. Include all features, equipment, and components installed by Manufacturer or Dealer according to the Manufacturer's current procedures and requirements for the applicable Manufacturer's Motor Vehicles;

d. Free of damage, defect, and rust which may affect appearance,operability, functionality, or serviceability;

e. Motor Vehicles and Options ordered by the Customer are fully compatible with each other;

f. Comply with current legal, customary, reasonable, and professional standards of the Motor Vehicle and transportation equipment manufacturing industry;

g. Comply with current mandatory and applicable federal and State of Florida Motor Vehicles standards and requirements including, but not limited to, all legal, safety, and environmental standards and requirements; and

4. Advertising and Marketing

No Dealer's advertising and identification (name, logos, etc.) is permitted on any Commodity offered under this Contract. The Manufacturer's advertising and identification (name, Model, logos, etc.) is permitted on any Commodity provided under this Contract if such advertising and identification is a Manufacturer's practice. The Contractor shall be responsible for removing, without damage, all impermissible or unacceptable advertising and identification. The Department and Customers reserve the right to, in their sole discretion, determine what advertising and identification is considered unacceptable under this Contract.

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5. Luxury, Performance, or Sport Motor Vehicles or Options

No luxury, performance, or sport Motor Vehicles or Options shall be permitted under this Contract. The Bureau of Fleet Management and the Contract Manager shall determine what is considered luxury, performance, or sport. All Options and equipment must be approved by the Bureau of Fleet Management in accordance with 60B-1 F.A.C.

6. Installation

When installation is required, the Contractor shall be responsible for ensuring the installation of the Options in the required locations at no additional charge, as specified in the Charges and Fees section. Options shall be assembled and installed by the Manufacturer, Dealer, or at the port. All materials used in the installation shall be new and unused and shall be free of defects that would diminish the appearance or render it structurally or operationally unsound. Installation includes the furnishing of any materials required to install or replace the parts in the proper location. The Contractor shall protect the installation site from damage and shall repair any damages caused during installation. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. The Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on the installation site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat andunobstructed condition, with everything in satisfactory repair and order.

6.1 Body Transfer and 3rd Party Body Installations

In the event the Customer chooses to purchase or supply a cab and chassis, or cutaway van separately, the Contractor must comply with section 319.21, Florida Statutes, perform Manufacturer required pre-delivery inspection, and ensure all proper tag and title documents are present during the inspection and delivery pursuant to Florida license requirements. The Contractor shall inform the Customer, upon receipt of the order, of any additional charges for installation of aftermarket Options only. The Department reserves the right to reject an installation charge if, within the Department's sole discretion, the proposed installation charge does not align with market prices. The Manufacturer must certify that it conforms to all Federal Motor Vehicle Safety Standards (FMVSS). The facilitation of a body transfer or 3rd party body installations must be included in the Motor Vehicle's price; however, an additional cost may occur for installation by the Contractor or body upfitter. The installation cost may vary due to the body configuration; however, the installation price shall be included on the Price Quote Form (PQF) from the Contractor.

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7. Warranty Repairs and Adjustments

All warranty repairs and adjustments are covered throughout the Contract term at no additional cost to Customer(s) or the Department. The Manufacturer shall be responsible for warranty and recall services performed, regardless of whether the Contractor actually performed the service. Nothing in this section requires or allows the Contractor to require the Customer to return the Motor Vehicle to the Contractor for warranty repairs and adjustments. The Customer shall be able to return the Motor Vehicle to any location authorized by the Manufacturer to perform warranty repairs and adjustments at no additional cost to the Customer.

7.1 Extended Warranty

This Contract does not include “extended warranty” service agreements. However, the Contractor may offer Customers “extended warranty” service agreements for the maintenance and repair of Commodities after the initial warranty expires, but not as a term of this Contract. The Contractor will list this additional service as a separate item on the invoice.

8. Federal and State Standards

All requirements herein are in full and complete compliance with all federal and State of Florida laws, standards, and regulations applicable to the type and class of Commodities and contractual services being provided. This includes but is not limited to: Federal Motor Vehicle Safety Standards (“FMVSS”), Occupational Safety and Health Administration (“OSHA”), Environmental Protection Agency (“EPA”) Standards, and State of Florida laws, requirements, and regulations that apply to the type and class of Commodities and contractual services being provided. It is the intent of the Department that the Contractor(s) comply with all applicable federal and State of Florida regulations regarding the Commodities and contractual services’ safety and environmental requirements, including any legislation or regulations which become effective during the term of the Contract and shall become a part of the Contract. The Contractor(s) shall meet or exceed any such requirements of the laws and regulations applicable to the type and class of Commodities and contractual services provided. If a conflict exists, the Contractor, regardless of whether it is the Manufacturer or Dealer, shall contact the Department’s Contract Manager in writing no later than 24 hours after identification of the conflict.

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9. Warranty

The Manufacturer's warranty shall cover all Commodities and contractual services offered under the Contract. The Manufacturer's warranty is required to provide coverage against defective material, workmanship, and failure to perform. The Manufacturer's warranty coverage shall be identical to or exceed those normally provided for the Commodities and contractual services specified herein that are sold to any Federal, state, or local governments. The Manufacturer's warranty shall be in effect for a minimum term of one year from the Customer's acceptance, as specified in the "Inspection and Acceptance" section. Should the Manufacturer's warranty conflict with any requirements, terms, or conditions of the Contract, the Contract requirements, terms, and conditions shall prevail. Customers shall contact the Dealer or Manufacturer regarding the Manufacturer warranty terms and conditions.

10. Recalls

In the event there is a recall of any of the Motor Vehicle or Options, the Contractor shall provide reasonable assistance to the Department in developing a recall strategy and shall cooperate with the Department and the Customers in monitoring the recall operation and in preparing such reports as may be required. Each Contractor shall immediately notify and provide copies to the Department of any communications, whether relating to recalls or otherwise, with any Customer. The Contractor shall ensure that defective Motor Vehicle and Options are rectified, replaced, and destroyed in compliance with all applicable laws, rules or regulations and the Department's reasonable instructions. All Contractor efforts related to recalls shall be at Contractor's own expense.

11. Manufacturer's Last Order Date and Production Schedule Changes

The Contractor shall provide notification of a Manufacturer's Last Order Date by email to the Department's Contract Manager no later than 30 calendar days prior to the effective date of the Manufacturer's Last Order Date. When available, the Contractor shall immediately provide copies of the Manufacturer's notice of the Manufacturer's Last Order Date to the Department's Contract Manager.

The Contractor shall notify the Customer and the Department's Contract Manager in writing of any production schedule changes associated with the Customer's order within one Business Day of receiving the order.

12. Model Additions, Replacements, and Deletions

A new Model may be added to Attachment C, Cost Sheet (Group 1 – 7) at the request of the Contractor if all of the following conditions are met:

- The Model did not exist at the time of the original procurement;
- The Model is produced under a Brand for which the Contractor was awarded;
- The Model meets or exceeds the Contract requirements, specifications, terms and conditions;
- The Model falls under a Sub-Group (or Group, for Groups that do not include Sub-Groups) for which the Contractor was awarded; and

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- The Motor Vehicle, OEM Options, and Non-OEM Options Cost Plus Percentage offered by the Contractor is less than or equal to the highest Motor Vehicle, OEM Options, and Non-OEM Options Cost Plus Percentage offered for all Models in the same Sub-Group (or Group, for Groups that do not include Sub-Groups) for which the Contractor was awarded.

An existing Model may be replaced by a newer Model in Attachment C, Cost Sheet (Group 1 – 7) at the request of the Contractor if all of the following conditions are met:

- The new Model did not exist at the time of the original procurement;
- The new Model is produced under the same Brand as the existing Model;
- The Model meets or exceeds the Contract requirements, specifications, terms and conditions;
- The Manufacturer's intent is to replace the existing Model with the new Model; and
- The Motor Vehicle, OEM Options, and Non-OEM Options Cost Plus Percentage offered by the Contractor for the new Model is less than or equal to the Motor Vehicle, OEM Options, and Non-OEM Options Cost Plus Percentage for the existing Model being replaced.

An existing Model may be deleted from Attachment C, Cost Sheet (Group 1 – 7) at the request of the Contractor if the Manufacturer discontinues production of the Model.

The Department reserves the right to delete Models, from this Contract by removing them from Attachment C, Cost Sheet (Group 1 – 7). Models may be removed at the sole discretion of the Department.

The Department reserves the exclusive right to approve or deny any addition, deletion, replacement, or other request under this section and to establish its effective date. Requests will be reviewed separately and accepted or rejected on an individual basis.

13. Price Quote Form (PQF)

Customers shall request a PQF from all Contractors awarded for a specific Model. If the Model is available from the Contractor, the Contractor shall provide Customers a completed PQF for Motor Vehicles and Options purchased under this Contract and all charges, including labor and installation, shall be itemized separately. The maximum pricing permitted shall not exceed the sum of the Cost and applied Cost Plus Percentage for the awarded Model and Options. The Customer and Contractor may negotiate a lower price.

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Upon Customer request, the completed PQF shall be provided by the Contractor and returned to the Customer within two Business Days. The Contractor will provide the price available at the time of the PQF using the latest information available from the manufacturer at the time and considering Options or other additions to meet the Model and Options requested. The Contractor is responsible for communicating any potential price changes during the manufacturing process, and then give the Customer the option to accept the changes or cancel the purchase order. The Contractor shall be responsible for removing all non-eligible and unacceptable charges and fees under the Contract from the PQF.

At the time of quote, the PQF must be accompanied by documentation showing Cost and the added Cost Plus Percentage for the Customer. Upon delivery, the Contractor must provide documentation showing Cost and the added Cost Plus Percentage for the Customer. At a minimum, the Contractor shall provide documentation reflecting the actual price the Contractor paid for the Model and applicable Options from the Manufacturer including any delivery fees. Any price changes that occur during the manufacturing, ordering, or delivery process must be approved by the Customer.

14. Department Approval (State Agency Only)
After receiving a completed PQF, the Customer will develop a justification to support price reasonableness and complete the MP6301, Request for Acquisition of Motor Vehicle(s) and Mobile Equipment Form, which is available at:

https://www.dms.myflorida.com/business_operations/fleet_management_and_federal_property_assistance/fleet_management/purchase_of_mobile_equipment

15. Acknowledgment of Order Form
The Contractor shall email Customers with a completed Attachment I, Acknowledgment of Order Form, within five Business Days of receiving the Customer's order. The Contractor must use the Acknowledgment of Order Form and shall not make any alterations. Failure by the Contractor to provide the Customer the Acknowledgment of Order Form within five Business Days from the date the Contractor received the Customer's order will be considered acceptance of the order by default, which, if necessary, shall require the provision of the Motor Vehicle(s) and Options which meets the requirements, terms, and conditions herein and shall not be higher than the Cost Plus Percentage provided in Attachment C, Cost Sheet (Group 1 – 7). If the awarded Motor Vehicle(s) and Options are not available or cannot be delivered within the contractually required timeframe, the Contractor must provide a comparable Motor Vehicle(s) and Options of equal or better value which meets or exceeds the requirements, terms, and conditions herein. The Contractor's proposed substitution is subject to prior approval by the Customer and the Department.

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16. Acceptance of Order

The Contractor shall deliver the awarded Motor Vehicle(s) and Options listed on the Customer's order in accordance with the prices, Cost Plus Percentages, requirements, terms, and conditions of the Contract and the Customer's order.

17. Transportation and Delivery

The final price to the Customer shall include all charges for packing, handling, freight, distribution, and delivery. Transportation and Delivery of Motor Vehicles and Options shall be Free on Board (FOB) Destination to any location statewide as follows:

1. Motor Vehicles and Options not in stock or unavailable from a Manufacturer at the time of order must be delivered within 180 calendar days, and only based on industry delays, not to exceed 365 calendar days, after receipt of order, unless otherwise agreed to by the Customer. For any delivery not made within the 180 calendar day timeframe, due to industry delays, the Department's Contract Manager must be notified immediately by the Contractor and given a copy of the Customer's order. The Contractor must provide the Department's Contract Manager any requested information and a timeframe for completion of the order.

2. Motor Vehicles and Options in stock must be delivered within 14 calendar days after receipt of the Customer's order unless an Option requires a post-Manufacturer or Dealer installation. These Options shall be delivered within 30 calendar days after receipt of the order.

Delivery of Motor Vehicles and Options is defined as the receipt by the Customer and delivered to the Customer's place of business or designated location, or if the Customer chooses, at the Contractor's place of business. The Contractor shall provide Customers a minimum of 24 hours' written notice prior to delivery. Deliveries will be received only between 8:00 a.m. and 3:00 p.m. on Business Days and on the Customer's local time unless previously arranged and approved by the Customer in writing.

Deliveries of Motor Vehicles and Options can be made by either private or common carrier transport; or where delivery may be accomplished by driving the self-propelled vehicle with less than 250 odometer miles at delivery, the self-propelled vehicle may, with the Customer's prior approval, be driven to the delivery location. The Contractor must make every effort to minimize the number of odometer miles at delivery. At the Customer's option, vehicles with more than 250 odometer miles at delivery may be rejected, or $0.50 per mile in excess of 250 odometer miles may be deducted from the invoice and payment owed to Contractor.

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The Contractor must comply with the Manufacturer's break-in requirements and all applicable traffic and safety laws. All Motor Vehicles delivered by the Contractor to the Customer shall contain no less than ¼ tank of fuel as indicated by the fuel gauge at the time of delivery and receipt by the Customer.

The Contractor will perform a Manufacturer's Pre-Delivery Inspection (PDI) and is responsible for delivering Motor Vehicles and Options that are properly serviced, clean, and in first class operating condition. Pre-Delivery service, at a minimum, shall include the following:

1. Complete lubrication of operating chassis, engine, and mechanisms with Manufacturer's recommended grades of lubricants;
2. Check and fill all fluid levels to ensure proper fill;
3. Adjust engine(s), motor(s), and drive(s) to proper operating condition;
4. Inflate tires (including any spares) to proper pressures;
5. Check to ensure proper operation of all gauges, lights, and mechanical and hydraulic features;
6. Clean equipment, if necessary, and remove all unnecessary tags, stickers, papers, etc.; and
7. Ensure that the Motor Vehicle is completely assembled, unless otherwise noted by the Customer, and thoroughly tested and ready for operation upon Delivery.

All Motor Vehicles shall be delivered with the following, completed documents:

1. Manufacturer's PDI form;
2. A copy of the Customer's order;
3. Contractor's Attachment C, Cost Sheet (Group 1 – 7);
4. Manufacturer's invoice(s) for each delivered Commodity, including individual Motor Vehicle, and Options, in the shipment;
5. Proof of Manufacturer's MSRP (commonly known as the window sticker) if applicable,which shall not be adhered to the Vehicle and instead provided with the documents listed herein;
6. Manufacturer's certificate of origin, if applicable;
7. Manufacturer's operator manual
8. Manufacturer's warranty certifications;
9. Sales Tax Exemption Form, if applicable;
10. Temporary tag and 20-day extension tag, if applicable; and
11. DHSMV 82040, Application for Certificate of Title and vehicle registration, if applicable.

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Deliveries that do not include all above applicable forms and publications, or that have forms that have been altered, or are not properly completed, may be refused. Repeated failures by the Contractor to include the above properly completed documentation or that have submitted altered forms to the Customer may be cause for default proceedings and Contract termination.

18. Inspection and Acceptance

Section 6.4, Inspection and Acceptance of Commodities, of Exhibit D, Special Contract Conditions, is supplemented by adding the following:

The Customer should inspect the Motor Vehicle and Options for any physical damage. The Contractor is obligated to correct any Customer identified errors or damage at no cost to the Customer.

Inspection and acceptance shall occur at the location of the Customer's place of business or designated location, or if the Customer chooses, at the Contractor's place of business. Title and risk of loss or damage to all Motor Vehicles and Options shall be the responsibility of the Contractor until inspection and acceptance by the Customer. If a Motor Vehicle or Option requires service or adjustments, as required by the Customer, the Contractor shall either correct the issue or be responsible for reimbursing the Manufacturer's local service Dealer or others selected by the Customer to remedy the defect. The Contractor shall initiate such required service or adjustments within two Business Days following notification by the Customer. The Commodity shall not be accepted until all service or adjustments are satisfactory, and the Commodity is re-delivered in acceptable condition. All costs of transportation and delivery incurred for initial delivery and any re-deliveries due to non-Customer error or damage are the responsibility of the Contractor.

The Customer shall notify the Department of any Contract deviation that it cannot resolve with the Contractor. The Department and Customer shall develop a corrective action plan related to the Contract deviation, which may include the Customer's permanent refusal to accept the Motor Vehicle or Option, in which case the Commodity shall remain the property of the Contractor, and the Customer and the State shall not be liable for payment for any portion thereof.

19. Commodities Title and Registration

The Contractor shall title and register Motor Vehicles delivered under the Contract for the Customer in accordance with Florida Law, including Chapters 319 and 320, F.S. The Contractor shall provide any necessary form(s) that must be signed by the Customer at the time of delivery, and the Contractor shall obtain any necessary signature(s) and complete the titling and registration process for the Customer within thetimeframe agreed to by the Customer and the Contractor.

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In the event the Customer is permitted by law to obtain title and registration for the Motor Vehicle independent of the Contractor and chooses to obtain title and registration independent of the Contractor, the Customer shall notify the Contractor in writing of this decision no later than three Business Days following receipt of the Acknowledgment of Order Form. However, the Customer shall then be obligated to title and register the Motor Vehicle and the Contractor shall provide the Customer any documents necessary for the Customer to do so at the time of delivery.

The Contractor may obtain special plates such as “State”, “County”, or “City” from most county tax offices, but agency plates such as “DOT”, “DC”, “DNR”, etc. shall be obtained from the Department of Highway Safety and Motor Vehicles, Division of Motor Vehicles, in Tallahassee, Florida.

Customers may elect to transfer an existing license plate, or may choose to obtain a new license plate, for which additional fees may apply.

- The Contractor is not required to obtain new license plates for the Customer unless there is a notation, and a new license plate fee is included on the Customer’s order.
  The Customer’s order notation for a new license plate shall include the request for a new license plate, what type of license plate is required, and a Customer point of contact including the person’s name, title, and telephone number should there be any questions.

20. Charges and Fees
All pricing under this Contract shall include the following in the Cost Plus Percentage:

1. Administrative;
2. Environmental;
3. *Tax, Tag, and Title;
4. *License Plate Transfer;
5. Preparation;
6. Handling;
7. Freight;
8. Distribution;
9. Shipping;
10. Delivery to any point within the State of Florida;
11. Warranty;
12. Tire and Battery Fee;
13. Any other charges or fees necessary to deliver the Motor Vehicle or Options according to the requirements, specifications, terms, and conditions, exclusive of taxes; and
14. Installation (except as specified in the Body Transfer and 3rd Party Body Installations section of the SOW)

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*Customers have the right to process their own Tax, Tag, and Title and License Plate Transfer. If this occurs, the Contractor shall credit the Customer for any applicable title fees.

Charges and fees in excess of those that existed on the date the Contract was entered into may be extended to Customers only if the amount of the increase is attributable to changes in market conditions. The amount of the charge or fee extended to Customers shall not exceed the difference between the amount of the charge or fee at the time of the request for Departmental approval and the amount of the charge or fee that existed at the inception of the Contract. Prior to extending any such charge or fee to Customers, the Contractor must request the Department's approval by submitting to the Contract Manager documentation and justification for extending the amount of the charge or fee to Customers; the Contractor must explain the changes in market conditions that resulted in the charge or fee, identify the entity that determines and will receive the charge or fee (e.g. Manufacturer), and provide the methodology used to determine the amount of the charge or fee extended to Customers.

The Department reserves the exclusive right to approve or deny the increase of any charge or fee request. Any charge or fee request will be reviewed separately and accepted or rejected on an individual basis. After obtaining written approval from the Department to extend a charge or fee to Customers, the approved amount of the charge or fee must be listed separately on the PQF; the Contractor shall provide documentation of the Department's approval with each PQF that includes the charge or fee.

21. Contract Reporting

The Contractor shall report information on orders received from Customers associated with this Contract. The Contractor shall submit reports in accordance with the following schedule:

Report	Period Covered	Due Date
MFMP Transaction Fee Report	Calendar month	15 calendar days after the end of each month
Quarterly Sales Report	State's Fiscal Quarter	30 calendar days after close of the period
Diversity Report (submitted to the Customer)	State Fiscal Year	30 Business Days after close of the period

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22. MFMP Transaction Fee Report
The Contractor is required to submit monthly MFMP Transaction Fee Reports in the Department'selectronic format. Reports are due 15 calendar days after the end of the reporting period. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and vendor training presentations available online at the Transaction Fee &Reporting section and Training for Vendors section on the MFMP website. Assistance with Transaction Fee Reporting is also available from the MFMP Customer Service Desk by email at:

VendorHelp@myfloridamarketplace.com or telephone 866-FLA-EPRO (866-352-3776) from 8:00 a.m. to 6:00 p.m. Eastern Time.

23. Quarterly Sales Reports
The Contractor shall submit a Quarterly Sales Report in the manner and format required by the Department within thirty (30) calendar days after the close of each quarter. The Quarterly Sales Report template can be found here:
https://www.dms.myflorida.com/business_operations/state_purchasing/vendor_resources/quarterly_sales_report_format.
Initiation and submission of the most recent version of the Quarterly Sales Report posted on the DMS website are the responsibility of the Contractor without prompting or notification by the Department. If no sales are recorded during the period, the Contractor shall confirm that there was no reportable activity in the manner required by the Department. Sales will be reviewed on a quarterly basis. If no sales are recorded in two consecutive quarters, the Contractor may be placed on probationary status, or the Department may terminate the Contract. Failure to provide the Quarterly Sales Report, or other reports requested by the Department, will result in the imposition of financial consequences and may result in the Contractor being found in default and the termination of the Contract.

Quarter 1 – (July-September) – due 30 calendar days after the close of the period.
Quarter 2 – (October-December) – due 30 calendar days after the close of the period.
Quarter 3 – (January-March) – due 30 calendar days after the close of the period.
Quarter 4 – (April-June) – due 30 calendar days after the close of the period.

24. Diversity Report
The Contractor shall report to each Customer, spend with certified and other minority business enterprises. These reports shall include the period covered, the name, minority code and Federal Employer Identification Number of each minority business utilized during the period, Commodities provided by the minority business enterprise, and the amount paid to each minority business on behalf of each purchasing agency ordering under the terms of this Contract.

25. Ad Hoc Reports
The Department may require additional Contract sales information such as copies of purchase orders or ad hoc sales reports. The Contractor shall submit these documents and reports in the form acceptable to the Department within the timeframe specified by the Department.

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26. Business Review Meetings

Both the Department and Customer reserve the right to schedule business review meetings. The Department or Customer may specify the format or agenda for the meeting. At a minimum, the Business Review Meeting may include the following topics:

a. Contract compliance
b. Contract savings (in dollar amount and cost avoidance)
c. Spend reports by Customer
d. Recommendations for improved compliance and performance

27. Financial Consequences

Financial Consequences will be assessed for failure to timely perform or submit a report as required by the Contract and shall be paid via check or money order in US Dollars and made out to the Department of Management Services or the specific Customer, where applicable. Financial Consequences will be assessed daily or per occurrence for each individual failure until the performance or submittal is accomplished to the Department's or Customer's satisfaction, unless stated otherwise. Customer's reserve the right to revise or add additional financial consequences for each order. For the submissions of reports, financial consequences will apply to each target period beginning with the first full month or quarter of the Contract's performance and each month and quarter thereafter.

Deliverable	Performance Metric	Performance Due Date	Financial Consequence for Non-Performance
Contractor will timely submit completed Quarterly Sales Reports to the Department	All Quarterly Sales Reports will be submitted timely with the required information	Reports are due on or before the 30th calendar day after the close of each State fiscal quarter	$250 per Calendar Day late/not received
Contractor will timely submit completed MFMP Transaction Fee Reports to the Department	All MFMP Transaction Fee Reports will be submitted timely with the required information	Reports are due on or before the 15th calendar day after the close of each month	$250 per Calendar Day late/not received
Contractor will timely provide accurate Price Quote Forms to Customers	All Price Quote Forms will be timely provided to Customers with accurate information	PQFs are due within two Business Days following the Customer's request	$250 per occurrence of an inaccurate or untimely Price Quote Form

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Contractor will deliver Motor Vehicles with no less than a ¼ tank of fuel upon delivery to Customers	Contractor shall adhere to delivery requirements pursuant to the Transportation and Delivery section in the SOW	Upon each Motor Vehicle delivery to Customers	$50 per occurrence of a Motor Vehicle delivery with less than a ¼ tank of fuel upon delivery to Customers
Ad hoc report(s)	Provide ad hoc reports as requested	Within the timeframe agreed to by the Department and the Contractor or Customer and Contractor	$250 per occurrence

No favorable action will be considered for any Contractor who has outstanding Contract Quarterly Sales Reports, MFMP Transaction Fee Reports, or any other documentation, to include fees / monies that are required under this Contract.

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Department of MANAGEMENT SERVICES
We serve those who serve Florida

Exhibit C

ADDITIONAL SPECIAL CONTRACT CONDITIONS

A. Special Contract Conditions revisions: the corresponding subsections of the Special Contract Conditions referenced below are replaced in their entirety with the following:

2.2 Renewal.
Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(14), F.S.

3.2.2 Preferred Pricing. Left intentionally blank.

3.7 Transaction Fees.
The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system. Pursuant to Section 287.057(24), F.S., all payments shall be assessed a Transaction Fee of one percent (1.0%), or as may otherwise be established by law, which the vendor shall pay to the State.

For payments within the State accounting system (FLAIR or its successor), the Transaction Fee shall, when possible, be automatically deducted from payments to the vendor. If automatic deduction is not possible, the vendor shall pay the Transaction Fee pursuant to subsection 60A-1.031(2), F.A.C. By submission of these reports and corresponding payments, vendor certifies their correctness. All such reports and payments shall be subject to audit by the State or its designee.

The vendor shall receive a credit for any Transaction Fee paid by the vendor for the purchase of any item(s) if such item(s) are returned to the vendor through no fault, act, or omission of the vendor. Notwithstanding the foregoing, a Transaction Fee is non-refundable when an item is rejected or returned, or declined, due to the vendor's failure to perform or comply with specifications or requirements of the agreement.

Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or submission of required reporting of transactions shall constitute grounds for declaring the Vendor in default.

5.1 Conduct of Business.
The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all

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prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c) and (g), F.S., are hereby incorporated by reference.

Nothing contained within this Contract shall be construed to prohibit the Contractor from disclosing information relevant to performance of the Contract or purchase order to members or staff of the Florida Senate or Florida House of Representatives.

Pursuant to section 287.057(26), F.S., the Contractor shall answer all questions of, and ensure a representative will be available to, a continuing oversight team.
The Contractor will comply with all applicable disclosure requirements set forth in section 286.101, F.S. In the event the Department of Financial Services issues the Contractor a final order determining a third or subsequent violation pursuant to section 286.101(7)(c), F.S., the Contractor shall immediately notify the Department and applicable Customers and shall be disqualified from Contract eligibility.

5.4 Convicted, Discriminatory, Antitrust Violator, and Suspended Vendor Lists.
In accordance with sections 287.133, 287.134, and 287.137, F.S., the Contractor is hereby informed of the provisions of sections 287.133(2)(a), 287.134(2)(a), and 287.137(2)(a), F.S. For purposes of this Contract, a person or affiliate who is on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Convicted Vendor List, the Discriminatory Vendor List, or the Antitrust Violator Vendor List during the term of the Contract.

In accordance with section 287.1351, F.S., a vendor placed on the Suspended Vendor List may not enter into or renew a contract to provide any goods or services to an agency after its placement on the Suspended Vendor List.

A firm or individual placed on the Suspended Vendor List pursuant to section 287.1351, F.S., the Convicted Vendor List pursuant to section 287.133, F.S., the Antitrust Violator Vendor List pursuant to section 287.137, F.S., or the Discriminatory Vendor List pursuant to section 287.134, F.S., is immediately disqualified from Contract eligibility.

5.6 Cooperation with Inspector General and Records Retention.
Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration or termination of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State's Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The

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Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

8.1.1 Termination of Contract.
The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F.S., made or received by the Contractor in conjunction with the Contract unless the records are exempt from s. 24(a) of Art. I of the State Constitution and section 119.071(1), F.S.

8.1.2 Statutory Notice.
Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE DEPARTMENT'S CUSTODIAN OF PUBLIC RECORDS AT PUBLICRECORDS@DMS.FL.GOV, (850) 487-1082 OR 4050 ESPLANADE WAY, SUITE 160, TALLAHASSEE, FLORIDA 32399-0950.

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service.

(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.

(d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

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12.1 Performance or Compliance Audits.
The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 5.6, the State of Florida's Chief Financial Officer, and the Office of the Auditor General shall also have authority to perform audits and inspections.

13.2 E-Verify.
The Contractor and its subcontractors have an obligation to utilize the U.S. Department of Homeland Security's (DHS) E-Verify system for all newly hired employees in accordance with section 448.095, F.S. By executing this Contract, the Contractor certifies that it is registered with, and uses, the E-Verify system for all newly hired employees in accordance with section 448.095, F.S. The Contractor must obtain an affidavit from its subcontractors in accordance with paragraph (2)(b) of section 448.095, F.S., and maintain a copy of such affidavit for the duration of the Contract. The Contractor shall provide a copy of its DHS Memorandum of Understanding (MOU) to the Department's Contract Manager within five days of Contract execution.

This section serves as notice to the Contractor regarding the requirements of section 448.095, F.S., specifically sub-paragraph (2)(c)1, and the Department's obligation to terminate the Contract if it has a good faith belief that the Contractor has knowingly violated section 448.09(1), F.S. If terminated for such reason, the Contractor will not be eligible for award of a public contract for at least one year after the date of such termination. The Department will promptly notify the Contractor and order the immediate termination of the contract between the Contractor and a subcontractor performing work on its behalf for this Contract should the Department have a good faith belief that the subcontractor has knowingly violated section 448.09(1), F.S.

B. Special Contract Conditions additions: the following subsection is added to the Special Contract Conditions:

12.3 Document Inspection.
In accordance with section 216.1366, F.S., the Department or a state agency is authorized to inspect the: (a) financial records, papers, and documents of the Contractor that are directly related to the performance of the Contract or the expenditure of state funds; and (b) programmatic records, papers, and documents of the Contractor which the Department or state agency determines are necessary to monitor the performance of the Contract or to ensure that the terms of the Contract are being met. The Contractor shall provide such records, papers, and documents requested by the Department or a state agency within 10 Business Days after the request is made.

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Exhibit D

SPECIAL CONTRACT CONDITIONS
JULY 1, 2019 VERSION

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In accordance with Rule 60A-1.002(7), F.A.C., Form PUR 1000 is included herein by reference but is superseded in its entirety by these Special Contract Conditions.

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SECTION 1. DEFINITION.

The following definition applies in addition to the definitions in Chapter 287, Florida Statutes (F.S.), and Rule Chapter 60A-1, Florida Administrative Code (F.A.C.):

1.1 Customer.
The agency or eligible user that purchases commodities or contractual services pursuant to the Contract.

SECTION 2. CONTRACT TERM AND TERMINATION.

2.1 Initial Term.
The initial term will begin on the date set forth in the Contract documents or on the date the Contract is signed by all Parties, whichever is later.

2.2 Renewal.
Upon written agreement, the Department and the Contractor may renew the Contract in whole or in part only as set forth in the Contract documents, and in accordance with section 287.057(13), F.S.

2.3 Suspension of Work and Termination.

2.3.1 Suspension of Work.
The Department may, at its sole discretion, suspend any or all activities under the Contract, at any time, when it is in the best interest of the State of Florida to do so. The Customer may suspend a resulting contract or purchase order, at any time, when in the best interest of the Customer to do so. The Department or Customer will provide the Contractor written notice outlining the particulars of the suspension. After receiving a suspension notice, the Contractor must comply with the notice and will cease the performance of the Contract or purchase order. Suspension of work will not entitle the Contractor to any additional compensation. The Contractor will not resume performance of the Contract or purchase order until so authorized by the Department.

2.3.2 Termination for Convenience.
The Contract may be terminated by the Department in whole or in part at any time, in the best interest of the State of Florida. If the Contract is terminated before performance is completed, the Contractor will be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the Contract price as the amount of work satisfactorily performed. All work in progress will become the property of the Customer and will be turned over promptly by the Contractor.

2.3.3 Termination for Cause.
If the performance of the Contractor is not in compliance with the Contract requirements or the Contractor has defaulted, the Department may:

(a) immediately terminate the Contract;
(b) notify the Contractor of the noncompliance or default, require correction, and specify the date by which the correction must be completed before the Contract is terminated; or
(c) take other action deemed appropriate by the Department.

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SECTION 3. PAYMENT AND FEES.

3.1 Pricing.
The Contractor will not exceed the pricing set forth in the Contract documents.

3.2 Price Decreases.
The following price decrease terms will apply to the Contract:

3.2.1 Quantity Discounts. Contractor may offer additional discounts for one-time delivery of large single orders;

3.2.2 Preferred Pricing. The Contractor guarantees that the pricing indicated in this Contract is a maximum price. Additionally, Contractor's pricing will not exceed the pricing offered under comparable contracts. Comparable contracts are those that are similar in size, scope, and terms. In compliance with section 216.0113, F.S., Contractor must annually submit an affidavit from the Contractor's authorized representative attesting that the Contract complies with this clause.

3.2.3 Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, the Contractor may conduct sales promotions involving price reductions for a specified lesser period. The Contractor must submit documentation identifying the proposed: (1) starting and ending dates of the promotion, (2) commodities or contractual services involved, and (3) promotional prices compared to then-authorized prices.

3.3 Payment Invoicing.
The Contractor will be paid upon submission of invoices to the Customer after delivery and acceptance of commodities or contractual services is confirmed by the Customer. Invoices must contain sufficient detail for an audit and contain the Contract Number and the Contractor's Federal Employer Identification Number.

3.4 Purchase Order.
A Customer may use purchase orders to buy commodities or contractual services pursuant to the Contract and, if applicable, the Contractor must provide commodities or contractual services pursuant to purchase orders. Purchase orders issued pursuant to the Contract must be received by the Contractor no later than the close of business on the last day of the Contract's term. The Contractor is required to accept timely purchase orders specifying delivery schedules that extend beyond the Contract term even when such extended delivery will occur after expiration of the Contract. Purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the Contract shall survive the termination or expiration of the Contract and apply to the Contractor's performance. The duration of purchase orders for recurring deliverables shall not exceed the expiration of the Contract by more than twelve months. Any purchase order terms and conditions conflicting with these Special Contract Conditions shall not become a part of the Contract.

3.5 Travel.
Travel expenses are not reimbursable unless specifically authorized by the Customer in writing and may be reimbursed only in accordance with section 112.061, F.S.

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3.6 Annual Appropriation.
Pursuant to section 287.0582, F.S., if the Contract binds the State of Florida or an agency for the purchase of services or tangible personal property for a period in excess of one fiscal year, the State of Florida's performance and obligation to pay under the Contract is contingent upon an annual appropriation by the Legislature.

3.7 Transaction Fees.
The State of Florida, through the Department of Management Services, has instituted MyFloridaMarketPlace, a statewide eProcurement system pursuant to section 287.057(22), F.S. All payments issued by Customers to registered Vendors for purchases of commodities or contractual services will be assessed Transaction Fees as prescribed by rule 60A-1.031, F.A.C., or as may otherwise be established by law. Vendors must pay the Transaction Fees and agree to automatic deduction of the Transaction Fees when automatic deduction becomes available. Vendors will submit any monthly reports required pursuant to the rule. All such reports and payments will be subject to audit. Failure to comply with the payment of the Transaction Fees or reporting of transactions will constitute grounds for declaring the Vendor in default and subject the Vendor to exclusion from business with the State of Florida.

3.8 Taxes.
Taxes, customs, and tariffs on commodities or contractual services purchased under the Contract will not be assessed against the Customer or Department unless authorized by Florida law.

3.9 Return of Funds.
Contractor will return any overpayments due to unearned funds or funds disallowed pursuant to the terms of the Contract that were disbursed to the Contractor. The Contractor must return any overpayment within forty (40) calendar days after either discovery by the Contractor, its independent auditor, or notification by the Department or Customer of the overpayment.

SECTION 4. CONTRACT MANAGEMENT.

4.1 Composition and Priority.
The Contractor agrees to provide commodities or contractual services to the Customer as specified in the Contract. Additionally, the terms of the Contract supersede the terms of all prior agreements between the Parties on this subject matter.

4.2 Notices.
All notices required under the Contract must be delivered to the designated Contract Manager in a manner identified by the Department.

4.3 Department's Contract Manager.
The Department's Contract Manager, who is primarily responsible for the Department's oversight of the Contract, will be identified in a separate writing to the Contractor upon Contract signing in the following format:

Department's Contract Manager Name

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Department's Name
Department's Physical Address
Department's Telephone #
Department's Email Address

If the Department changes the Contract Manager, the Department will notify the Contractor. Such a change does not require an amendment to the Contract.

4.4 Contractor's Contract Manager.
The Contractor's Contract Manager, who is primarily responsible for the Contractor's oversight of the Contract performance, will be identified in a separate writing to the Department upon Contract signing in the following format:

Contractor's Contract Manager Name
Contractor's Name
Contractor's Physical Address
Contractor's Telephone #
Contractor's Email Address

If the Contractor changes its Contract Manager, the Contractor will notify the Department. Such a change does not require an amendment to the Contract.

4.5 Diversity.

4.5.1 Office of Supplier Diversity.
The State of Florida supports its diverse business community by creating opportunities for woman-, veteran-, and minority-owned small business enterprises to participate in procurements and contracts. The Department encourages supplier diversity through certification of woman-, veteran-, and minority-owned small business enterprises and provides advocacy, outreach, and networking through regional business events. For additional information, please contact the Office of Supplier Diversity (OSD) at osdinfo@dms.myflorida.com.

4.5.2 Diversity Reporting.
Upon request, the Contractor will report to the Department its spend with business enterprises certified by the OSD. These reports must include the time period covered, the name and Federal Employer Identification Number of each business enterprise utilized during the period, commodities and contractual services provided by the business enterprise, and the amount paid to the business enterprise on behalf of each agency purchasing under the Contract.

4.6 RESPECT.
Subject to the agency determination provided for in section 413.036, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES THAT ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM A NONPROFIT AGENCY FOR THE BLIND OR FOR THE SEVERELY HANDICAPPED THAT IS QUALIFIED PURSUANT TO CHAPTER 413, FLORIDA STATUTES, IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 413.036(1) AND (2), FLORIDA STATUTES;

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AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THE STATE AGENCY INSOFAR AS DEALINGS WITH SUCH QUALIFIED NONPROFIT AGENCY ARE CONCERNED.

Additional information about RESPECT and the commodities or contractual services it offers is available at https://www.respectofflorida.org.

4.7 PRIDE.
Subject to the agency determination provided for in sections 287.042(1) and 946.515, F.S., the following statement applies:

IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT ANY ARTICLES WHICH ARE THE SUBJECT OF, OR REQUIRED TO CARRY OUT, THIS CONTRACT SHALL BE PURCHASED FROM THE CORPORATION IDENTIFIED UNDER CHAPTER 946, F.S., IN THE SAME MANNER AND UNDER THE SAME PROCEDURES SET FORTH IN SECTION 946.515(2) AND (4), F.S.; AND FOR PURPOSES OF THIS CONTRACT THE PERSON, FIRM, OR OTHER BUSINESS ENTITY CARRYING OUT THE PROVISIONS OF THIS CONTRACT SHALL BE DEEMED TO BE SUBSTITUTED FOR THIS AGENCY INSOFAR AS DEALINGS WITH SUCH CORPORATION ARE CONCERNED.

Additional information about PRIDE and the commodities or contractual services it offers is available at https://www.pride-enterprises.org.

SECTION 5. COMPLIANCE WITH LAWS.

5.1 Conduct of Business.
The Contractor must comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, state, and local agencies having jurisdiction and authority. For example, the Contractor must comply with section 274A of the Immigration and Nationality Act, the Americans with Disabilities Act, Health Insurance Portability and Accountability Act, if applicable, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. The provisions of subparagraphs 287.058(1)(a)-(c), and (g), F.S., are hereby incorporated by reference.

5.2 Dispute Resolution, Governing Law, and Venue.
Any dispute concerning performance of the Contract shall be decided by the Department's designated Contract Manager, who will reduce the decision to writing and serve a copy on the Contractor. The decision of the Contract Manager shall be final and conclusive. Exhaustion of this administrative remedy is an absolute condition precedent to the Contractor's ability to pursue legal action related to the Contract or any other form of dispute resolution. The laws of the State of Florida govern the Contract. The Parties submit to the jurisdiction of the courts of the State of Florida exclusively for any legal action related to the Contract. Further, the Contractor hereby waives all privileges and rights relating to venue it may have under Chapter 47, F.S., and all such venue privileges and rights it may have under any other statute, rule, or case law, including, but not limited to, those based on convenience. The Contractor hereby submits to venue in the county chosen by the Department.

5.3 Department of State Registration.

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Consistent with Title XXXVI, F.S., the Contractor and any subcontractors that assert status, other than a sole proprietor, must provide the Department with conclusive evidence of a certificate of status, not subject to qualification, if a Florida business entity, or of a certificate of authorization if a foreign business entity.

5.4 Suspended, Convicted, and Discriminatory Vendor Lists.
In accordance with sections 287.042, 287.133, and 287.134, F.S., an entity or affiliate who is on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List may not perform work as a contractor, supplier, subcontractor, or consultant under the Contract. The Contractor must notify the Department if it or any of its suppliers, subcontractors, or consultants have been placed on the Suspended Vendor List, Convicted Vendor List, or Discriminatory Vendor List during the term of the Contract.

5.5 Scrutinized Companies - Termination by the Department.
The Department may, at its option, terminate the Contract if the Contractor is found to have submitted a false certification as provided under section 287.135(5), F.S., or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

5.6 Cooperation with Inspector General and Records Retention.
Pursuant to section 20.055(5), F.S., the Contractor understands and will comply with its duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing. Upon request of the Inspector General or any other authorized State official, the Contractor must provide any information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but will not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor will retain such records for the longer of five years after the expiration of the Contract, or the period required by the General Records Schedules maintained by the Florida Department of State, at the Department of State’s Records Management website. The Contractor agrees to reimburse the State of Florida for the reasonable costs of investigation incurred by the Inspector General or other authorized State of Florida official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State of Florida which results in the suspension or debarment of the Contractor. Such costs will include but will not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor agrees to impose the same obligations to cooperate with the Inspector General and retain records on any subcontractors used to provide goods or services under the Contract.

SECTION 6. MISCELLANEOUS.

6.1 Subcontractors.
The Contractor will not subcontract any work under the Contract without prior written consent of the Department. The Contractor is fully responsible for satisfactory completion of all its subcontracted work. The Department supports diversity in its procurements and contracts, and requests that the Contractor offer subcontracting opportunities to certified woman-, veteran-, and minority-owned small businesses. The

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Contractor may contact the OSD at osdhelp@dms.myflorida.com for information on certified small business enterprises available for subcontracting opportunities.

6.2 Assignment.
The Contractor will not sell, assign, or transfer any of its rights, duties, or obligations under the Contract without the prior written consent of the Department. However, the Contractor may waive its right to receive payment and assign same upon notice to the Department. In the event of any assignment, the Contractor remains responsible for performance of the Contract, unless such responsibility is expressly waived by the Department. The Department may assign the Contract with prior written notice to the Contractor.

6.3 Independent Contractor.
The Contractor and its employees, agents, representatives, and subcontractors are independent contractors and not employees or agents of the State of Florida and are not entitled to State of Florida benefits. The Department and Customer will not be bound by any acts or conduct of the Contractor or its employees, agents, representatives, or subcontractors. The Contractor agrees to include this provision in all its subcontracts under the Contract.

6.4 Inspection and Acceptance of Commodities.

6.4.1 Risk of Loss.
Matters of inspection and acceptance are addressed in section 215.422, F.S. Until acceptance, risk of loss or damage will remain with the Contractor. The Contractor will be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer will: record any evidence of visible damage on all copies of the delivering carrier's bill of lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's bill of lading and damage inspection report.

6.4.2 Rejected Commodities.
When a Customer rejects a commodity, Contractor will remove the commodity from the premises within ten (10) calendar days after notification of rejection, and the risk of loss will remain with the Contractor. Commodities not removed by the Contractor within ten (10) calendar days will be deemed abandoned by the Contractor, and the Customer will have the right to dispose of such commodities. Contractor will reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected commodities.

6.5 Safety Standards.
Performance of the Contract for all commodities or contractual services must comply with requirements of the Occupational Safety and Health Act and other applicable State of Florida and federal requirements.

6.6 Ombudsman.
A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this office are found in section 215.422, F.S., which include disseminating information relative to prompt payment and assisting contractors in receiving their payments in a timely manner from a Customer. The Vendor Ombudsman may be contacted at (850) 413-5516.

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6.7 Time is of the Essence.
Time is of the essence regarding every obligation of the Contractor under the Contract. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

6.8 Waiver.
The delay or failure by the Department or the Customer to exercise or enforce any rights under the Contract will not constitute waiver of such rights.

6.9 Modification and Severability.
The Contract may only be modified by written agreement between the Department and the Contractor. Should a court determine any provision of the Contract is invalid, the remaining provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the Contract did not contain the provision held invalid.

6.10 Cooperative Purchasing.
Pursuant to their own governing laws, and subject to the agreement of the Contractor, governmental entities that are not Customers may make purchases under the terms and conditions contained herein, if agreed to by Contractor. Such purchases are independent of the Contract between the Department and the Contractor, and the Department is not a party to these transactions. Agencies seeking to make purchases under this Contract are required to follow the requirements of Rule 60A-1.045(5), F.A.C.

SECTION 7. LIABILITY AND INSURANCE.

7.1 Workers' Compensation Insurance.
The Contractor shall maintain workers' compensation insurance as required under the Florida Workers' Compensation Law or the workers' compensation law of another jurisdiction where applicable. The Contractor must require all subcontractors to similarly provide workers' compensation insurance for all of the latter's employees. In the event work is being performed by the Contractor under the Contract and any class of employees performing the work is not protected under Workers' Compensation statutes, the Contractor must provide, and cause each subcontractor to provide, adequate insurance satisfactory to the Department, for the protection of employees not otherwise protected.

7.2 General Liability Insurance.
The Contractor must secure and maintain Commercial General Liability Insurance, including bodily injury, property damage, products, personal and advertising injury, and completed operations. This insurance must provide coverage for all claims that may arise from performance of the Contract or completed operations, whether by the Contractor or anyone directly or indirectly employed by the Contractor. Such insurance must include the State of Florida as an additional insured for the entire length of the resulting contract. The Contractor is responsible for determining the minimum limits of liability necessary to provide reasonable financial protections to the Contractor and the State of Florida under the resulting contract.

7.3 Florida Authorized Insurers.

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All insurance shall be with insurers authorized and eligible to transact the applicable line of insurance business in the State of Florida. The Contractor shall provide Certification(s) of Insurance evidencing that all appropriate coverage is in place and showing the Department to be an additional insured.

7.4 Performance Bond.
Unless otherwise prohibited by law, the Department may require the Contractor to furnish, without additional cost to the Department, a performance bond or irrevocable letter of credit or other form of security for the satisfactory performance of work hereunder. The Department shall determine the type and amount of security.

7.5 Indemnification.
To the extent permitted by Florida law, the Contractor agrees to indemnify, defend, and hold the Customer and the State of Florida, its officers, employees, and agents harmless from all fines, claims, assessments, suits, judgments, or damages, including consequential, special, indirect, and punitive damages, including court costs and attorney's fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right or out of any acts, actions, breaches, neglect, or omissions of the Contractor, its employees, agents, subcontractors, assignees, or delegates related to the Contract, as well as for any determination arising out of or related to the Contract that the Contractor or Contractor's employees, agents, subcontractors, assignees, or delegates are not independent contractors in relation to the Customer. The Contract does not constitute a waiver of sovereign immunity or consent by the Customer or the State of Florida or its subdivisions to suit by third parties. Without limiting this indemnification, the Customer may provide the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense.

7.6 Limitation of Liability.
Unless otherwise specifically enumerated in the Contract or in the purchase order, neither the Department nor the Customer shall be liable for special, indirect, punitive, or consequential damages, including lost data or records (unless the Contract or purchase order requires the Contractor to back-up data or records), even if the Department or Customer has been advised that such damages are possible. Neither the Department nor the Customer shall be liable for lost profits, lost revenue, or lost institutional operating savings. The Department or Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs, and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

SECTION 8. PUBLIC RECORDS, TRADE SECRETS, DOCUMENT MANAGEMENT, AND INTELLECTUAL PROPERTY.

8.1 Public Records.

8.1.1 Termination of Contract.

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The Department may terminate the Contract for refusal by the Contractor to comply with this section by not allowing access to all public records, as defined in Chapter 119, F. S., made or received by the Contractor in conjunction with the Contract.

8.1.2 Statutory Notice.
Pursuant to section 119.0701(2)(a), F.S., for contracts for services with a contractor acting on behalf of a public agency, as defined in section 119.011(2), F.S., the following applies:

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE TELEPHONE NUMBER, EMAIL ADDRESS, AND MAILING ADDRESS PROVIDED IN THE RESULTING CONTRACT OR PURCHASE ORDER.

Pursuant to section 119.0701(2)(b), F.S., for contracts for services with a contractor acting on behalf of a public agency as defined in section 119.011(2), F.S., the Contractor shall:

(a) Keep and maintain public records required by the public agency to perform the service.
(b) Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if the Contractor does not transfer the records to the public agency.
(d) Upon completion of the Contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the Contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

8.2 Protection of Trade Secrets or Otherwise Confidential Information.

8.2.1 Contractor Designation of Trade Secrets or Otherwise Confidential Information.
If the Contractor considers any portion of materials to be trade secret under section 688.002 or 812.081, F.S., or otherwise confidential under Florida or federal law, the Contractor must clearly designate that portion of the materials as trade secret or otherwise confidential when submitted to the Department. The Contractor will be

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responsible for responding to and resolving all claims for access to Contract-related materials it has designated trade secret or otherwise confidential.

8.2.2 Public Records Requests.
If the Department receives a public records request for materials designated by the Contractor as trade secret or otherwise confidential under Florida or federal law, the Contractor will be responsible for taking the appropriate legal action in response to the request. If the Contractor fails to take appropriate and timely action to protect the materials designated as trade secret or otherwise confidential, the Department will provide the materials to the requester.

8.2.3 Indemnification Related to Confidentiality of Materials.
The Contractor will protect, defend, indemnify, and hold harmless the Department for claims, costs, fines, and attorney's fees arising from or relating to its designation of materials as trade secret or otherwise confidential.

8.3 Document Management.
The Contractor must retain sufficient documentation to substantiate claims for payment under the Contract and all other records, electronic files, papers, and documents that were made in relation to this Contract. The Contractor must retain all documents related to the Contract for five (5) years after expiration of the Contract or, if longer, the period required by the General Records Schedules maintained by the Florida Department of State available at the Department of State's Records Management website.

8.4 Intellectual Property.

8.4.1 Ownership.
Unless specifically addressed otherwise in the Contract, the State of Florida shall be the owner of all intellectual property rights to all property created or developed in connection with the Contract.

8.4.2 Patentable Inventions or Discoveries.
Any inventions or discoveries developed in the course, or as a result, of services in connection with the Contract that are patentable pursuant to 35 U.S.C. § 101 are the sole property of the State of Florida. Contractor must inform the Customer of any inventions or discoveries developed or made through performance of the Contract, and such inventions or discoveries will be referred to the Florida Department of State for a determination on whether patent protection will be sought. The State of Florida will be the sole owner of all patents resulting from any invention or discovery made through performance of the Contract.

8.4.3 Copyrightable Works.
Contractor must notify the Department or State of Florida of any publications, artwork, or other copyrightable works developed in connection with the Contract. All copyrights created or developed through performance of the Contract are owned solely by the State of Florida.

SECTION 9. DATA SECURITY.

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The Contractor will maintain the security of State of Florida data including, but not limited to, maintaining a secure area around any displayed visible data and ensuring data is stored and secured when not in use. The Contractor and subcontractors will not perform any of the services from outside of the United States, and the Contractor will not allow any State of Florida data to be sent by any medium, transmitted, or accessed outside the United States due to Contractor's action or inaction. In the event of a security breach involving State of Florida data, the Contractor shall give notice to the Customer and the Department within one business day. "Security breach" for purposes of this section will refer to a confirmed event that compromises the confidentiality, integrity, or availability of data. Once a data breach has been contained, the Contractor must provide the Department with a post-incident report documenting all containment, eradication, and recovery measures taken. The Department reserves the right in its sole discretion to enlist a third party to audit Contractor's findings and produce an independent report, and the Contractor will fully cooperate with the third party. The Contractor will also comply with all HIPAA requirements and any other state and federal rules and regulations regarding security of information.

SECTION 10. GRATUITIES, LOBBYING, AND COMMUNICATIONS.

10.1 Gratuities.
The Contractor will not, in connection with this Contract, directly or indirectly (1) offer, give, or agree to give anything of value to anyone as consideration for any State of Florida officer's or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone anything of value for the benefit of, or at the direction or request of, any State of Florida officer or employee.

10.2 Lobbying.
In accordance with sections 11.062 and 216.347, F.S., Contract funds are not to be used for the purpose of lobbying the Legislature, the judicial branch, or the Department. Pursuant to section 287.058(6), F.S., the Contract does not prohibit the Contractor from lobbying the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding the Contract after the Contract is executed and during the Contract term.

10.3 Communications.

10.3.1 Contractor Communication or Disclosure.
The Contractor shall not make any public statements, press releases, publicity releases, or other similar communications concerning the Contract or its subject matter or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished in compliance with the Contract, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

10.3.2 Use of Customer Statements.
The Contractor shall not use any statement attributable to the Customer or its employees for the Contractor's promotions, press releases, publicity releases, marketing, corporate communications, or other similar communications, without first notifying the Customer's Contract Manager and securing the Customer's prior written consent.

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SECTION 11. CONTRACT MONITORING.

11.1 Performance Standards.
The Contractor agrees to perform all tasks and provide deliverables as set forth in the Contract. The Department and the Customer will be entitled at all times, upon request, to be advised as to the status of work being done by the Contractor and of the details thereof.

11.2 Performance Deficiencies and Financial Consequences of Non-Performance.

11.2.1 Proposal of Corrective Action Plan.
In addition to the processes set forth in the Contract (e.g., service level agreements), if the Department or Customer determines that there is a performance deficiency that requires correction by the Contractor, then the Department or Customer will notify the Contractor. The correction must be made within a time-frame specified by the Department or Customer. The Contractor must provide the Department or Customer with a corrective action plan describing how the Contractor will address all performance deficiencies identified by the Department or Customer.

11.2.2 Retainage for Unacceptable Corrective Action Plan or Plan Failure.
If the corrective action plan is unacceptable to the Department or Customer, or implementation of the plan fails to remedy the performance deficiencies, the Department or Customer will retain ten percent (10%) of the total invoice amount. The retainage will be withheld until the Contractor resolves the performance deficiencies. If the performance deficiencies are resolved, the Contractor may invoice the Department or Customer for the retained amount. If the Contractor fails to resolve the performance deficiencies, the retained amount will be forfeited to compensate the Department or Customer for the performance deficiencies.

11.3 Performance Delay.

11.3.1 Notification.
The Contractor will promptly notify the Department or Customer upon becoming aware of any circumstances that may reasonably be expected to jeopardize the timely and successful completion (or delivery) of any commodity or contractual service. The Contractor will use commercially reasonable efforts to avoid or minimize any delays in performance and will inform the Department or the Customer of the steps the Contractor is taking or will take to do so, and the projected actual completion (or delivery) time. If the Contractor believes a delay in performance by the Department or the Customer has caused or will cause the Contractor to be unable to perform its obligations on time, the Contractor will promptly so notify the Department and use commercially reasonable efforts to perform its obligations on time notwithstanding the Department’s delay.

11.3.2 Liquidated Damages.
The Contractor acknowledges that delayed performance will damage the DepartmentCustomer, but by their nature such damages are difficult to ascertain. Accordingly, the liquidated damages provisions stated in the Contract documents will apply. Liquidated damages are not intended to be a penalty and are solely intended to compensate for damages.

11.4 Force Majeure, Notice of Delay, and No Damages for Delay.

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The Contractor will not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay, and the delay is due directly to fire, explosion, earthquake, windstorm, flood, radioactive or toxic chemical hazard, war, military hostilities, terrorism, civil emergency, embargo, riot, strike, violent civil unrest, or other similar cause wholly beyond the Contractor's reasonable control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. The foregoing does not excuse delay which could have been avoided if the Contractor implemented any risk mitigation required by the Contract. In case of any delay the Contractor believes is excusable, the Contractor will notify the Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) calendar days after the cause that created or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) calendar days after the date the Contractor first had reason to believe that a delay could result. The foregoing will constitute the Contractor's sole remedy or excuse with respect to delay. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages will be asserted by the Contractor. The Contractor will not be entitled to an increase in the Contract price or payment of any kind from the Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor will perform at no increased cost, unless the Department determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State of Florida or to Customers, in which case the Department may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers and the Department with respect to commodities or contractual services subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the commodity or contractual services that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

SECTION 12. CONTRACT AUDITS.

12.1 Performance or Compliance Audits.
The Department may conduct or have conducted performance and/or compliance audits of the Contractor and subcontractors as determined by the Department. The Department may conduct an audit and review all the Contractor's and subcontractors' data and records that directly relate to the Contract. To the extent necessary to verify the Contractor's fees and claims for payment under the Contract, the Contractor's agreements or contracts with subcontractors, partners, or agents of the Contractor, pertaining to the Contract, may be inspected by the Department upon fifteen (15) calendar days' notice, during normal working hours and in accordance with the Contractor's facility access procedures where facility access is required. Release statements from its subcontractors, partners, or agents are not required for the Department or its designee to conduct compliance and performance audits on any of the Contractor's contracts relating to this Contract. The Inspector General, in accordance with section 5.6, the State of Florida's Chief Financial Officer, the Office of the Auditor General also have authority to perform audits and inspections.

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12.2 Payment Audit.
Records of costs incurred under terms of the Contract will be maintained in accordance with section 8.3 of these Special Contract Conditions. Records of costs incurred will include the Contractor's general accounting records, together with supporting documents and records of the Contractor and all subcontractors performing work, and all other records of the Contractor and subcontractors considered necessary by the Department, the State of Florida's Chief Financial Officer, or the Office of the Auditor General.

SECTION 13. BACKGROUND SCREENING AND SECURITY.

13.1 Background Check.
The Department or Customer may require the Contractor to conduct background checks of its employees, agents, representatives, and subcontractors as directed by the Department or Customer. The cost of the background checks will be borne by the Contractor. The Department or Customer may require the Contractor to exclude the Contractor's employees, agents, representatives, or subcontractors based on the background check results. In addition, the Contractor must ensure that all persons have a responsibility to self-report to the Contractor within three (3) calendar days any arrest for any disqualifying offense. The Contractor must notify the Contract Manager within twenty-four (24) hours of all details concerning any reported arrest. Upon the request of the Department or Customer, the Contractor will re-screen any of its employees, agents, representatives, and subcontractors during the term of the Contract.

13.2 E-Verify.
The Contractor must use the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired during the term of the Contract for the services specified in the Contract. The Contractor must also include a requirement in subcontracts that the subcontractor must utilize the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term. In order to implement this provision, the Contractor must provide a copy of its DHS Memorandum of Understanding (MOU) to the Contract Manager within five (5) calendar days of Contract execution. If the Contractor is not enrolled in DHS E-Verify System, it will do so within five (5) calendar days of notice of Contract award and provide the Contract Manager a copy of its MOU within five (5) calendar days of Contract execution. The link to E-Verify is https://www.uscis.gov/e-verify. Upon each Contractor or subcontractor new hire, the Contractor must provide a statement within five (5) calendar days to the Contract Manager identifying the new hire with its E-Verify case number.

13.3 Disqualifying Offenses.
If at any time it is determined that a person has been found guilty of a misdemeanor or felony offense as a result of a trial or has entered a plea of guilty or nolo contendere, regardless of whether adjudication was withheld, within the last six (6) years from the date of the court's determination for the crimes listed below, or their equivalent in any jurisdiction, the Contractor is required to immediately remove that person from any position with access to State of Florida data or directly performing services under the Contract. The disqualifying offenses are as follows:

(a) Computer related crimes;
(b) Information technology crimes;

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(c) Fraudulent practices;
(d) False pretenses;
(e) Frauds;
(f) Credit card crimes;
(g) Forgery;
(h) Counterfeiting;
(i) Violations involving checks or drafts;
(j) Misuse of medical or personnel records; and
(k) Felony theft.

13.4 Confidentiality.
The Contractor must maintain confidentiality of all confidential data, files, and records related to the commodities or contractual services provided pursuant to the Contract and must comply with all state and federal laws, including, but not limited to sections 381.004, 384.29, 392.65, and 456.057, F.S. The Contractor's confidentiality procedures must be consistent with the most recent version of the Department security policies, protocols, and procedures. The Contractor must also comply with any applicable professional standards with respect to confidentiality of information.

SECTION 14. WARRANTY OF CONTRACTOR'S ABILITY TO PERFORM.

The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the Suspended Vendor List, Convicted Vendor List, or the Discriminatory Vendor List, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Department in writing if its ability to perform is compromised in any manner during the term of the Contract.