



State of Idaho Contract SBPO20268375

Parties

Agency	Contractor
Department of Administration 650 W. State St. Boise, ID 83702	Kendall Dealership Holdings, LLC 15700 Idaho Center Blvd Nampa, ID 83687

Contract Summary

Contract Name: Statewide Vehicles Original Effective Date: 11/1/2025 Current Expiration Date: 10/31/2027	Current Contract Value: \$2,500,000.00 Estimated Lifetime Value: \$5,000,000.00 Contract Usage Type: Statewide
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Agency Contacts

Contact Name	Contact Phone	Contact Email
DOP CONTRACT ADMINISTRATION	208-332-1617	Contractadmin@adm.idaho.gov

Contractor Contacts

Contact Name	Contact Phone	Contact Email
RICHARD STOUT	208-515-6162	richstout@kendallauto.com

STATEWIDE CONTRACT SBPO20268375

1. PURPOSE

- 1.1. This price agreement is established pursuant to IDAPA 38.05.01.042.07 for Statewide Fleet Vehicles, in accordance with the requirements as described below.

2. TERM

- 2.1. The term of this Agreement is for two (2) years (11/1/2025 - 10/31/2027). This Agreement is not renewable or extendable.

3. PUBLIC AGENCY CLAUSE

- 3.1. Prices shall be extended to "Public Agencies" as defined in Idaho Code 67-2327, which reads:

"Public agency" means any city or political subdivision of this state, including, but not limited to counties; school districts; highway districts; and port authorities; instrumentalities of counties, cities or any political subdivision created under the laws of the state of Idaho; any agency of the state government; and any city or political subdivision of another state. "State" means the state of Idaho.

4. TERMS AND CONDITIONS

- 4.1 The current version of the State of Idaho Standard Contract Terms and Conditions can be found at the end of this document.

5. ADMINISTRATIVE FEE AND USAGE REPORT

- 5.1. Fee - The prices to be paid by the State (the prices provided by Contractor) shall be inclusive of a one and one-quarter percent (1.25%) Administrative Fee. On a quarterly basis, Contractor will remit to State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075 an amount equal to one and one-quarter percent (1.25%) of Contractor's net (sales minus credits) quarterly sales.

For Example: If the total Contractor's net sales to the Agency for one quarter= \$10,000, Contractor would remit $\$10,000 \times 0.0125 = \125 to the Division of Purchasing for that quarter, along with the required quarterly usage report.

- 5.2. Report - Contractor shall furnish a detailed quarterly usage report, supplying to the State the agency (State or political subdivision), the tire(s) and/or service provided, and the cost of the tire(s) and/or service. The Contractor shall submit the quarterly usage report from the Agreement to the State to purchasing@adm.idaho.gov in Excel format.

Reporting Timeline (Fiscal Year Quarters):

Fee and Report Date Due:

1st Quarter July 1 – September 30
2nd Quarter Oct. 1 – December 31
3rd Quarter Jan. 1 – March 31
4th Quarter April 1 – June 30

October 3
January 3
April 30
July 31

Mail your check, in the amount of the Quarterly Administrative Fee, to: State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075.

- 5.3 If the Contractor fails to submit the required quarterly usage report or timely remit the Administrative Fee, as provided above, the State, at its discretion, may declare the Contractor in default.

6. VEHICLE CATEGORIES

- 6.1 The State is seeking pricing for Chevrolet, GMC, Buick, Cadillac, Kia, Ford, Hyundai, and Nissan manufactured vehicles only. No substitutions will be accepted.

7. DEALERSHIP LOCATIONS

- 7.1. This Price Agreement will cover the following dealership(s)

- 7.2. Kendall Superstore

7.2.1. Address: 15700 Idaho Center Blvd, Nampa, ID 83687

7.2.2. Point of Contact: Richard Stout, 208-515-6162, richstout@kendallauto.com

7.3. Kendall Ford of Meridian

7.3.1. Address: 250 E Overland Rd, Meridian, ID 83642

7.3.2. Point of Contact: Richard Stout, 208-515-6162, richstout@kendallauto.com

7.4. Kendall Hyundai Boise

7.4.1. Address: 9250 W Fairview Avenue, Boise, ID 83704

7.4.2. Point of Contact: Richard Stout, 208-515-6162, richstout@kendallauto.com

7.5. Kendall Nissan of Nampa

7.5.1. Address: 15885 Idaho Center Blvd, Nampa, ID 83687

7.5.2. Point of Contact: Richard Stout, 208-515-6162, richstout@kendallauto.com

7.6. Kendall Hyundai of Nampa

7.6.1. Address: 15715 N Idaho Center Blvd, Nampa, ID 83687

7.6.2. Point of Contact: Richard Stout, 208-515-6162, richstout@kendallauto.com

8. DEFINITIONS

- 8.1. Standard fleet vehicle: Except for an automatic transmission, which must be included in every vehicle, a standard fleet vehicle is defined as the most basic version and engine type (i.e. flex fuel vs gas) of the manufacturers model that results in the lowest cost to the State.
- 8.2. Dealer Net Invoice: Dealer Net Invoice is the price offered on base model vehicles, less holdback, advertising, financing, and all applicable discounts available; and including any other incentives offered by the manufacturer.
- 8.3. Destination Charge: Destination Charge is the cost to deliver the vehicle(s) from the manufacturer to the dealer. Destination Charges will be firm against any increase for each model year vehicle on contract.
- 8.4. Dealer Margin: Dealer Margin is a guaranteed fixed amount for each vehicle sold that includes overhead, profit, registration and title costs, fuel, preparation, pre-servicing costs, and any other miscellaneous cost associated with delivery of a vehicle to an Ordering Agency.
- 8.5. Government Bid Assistance: Bid assistance (government price concessions) must be identified for each vehicle model.

9. PRICING INFORMATION

- 9.1. In addition to Dealer Net Invoice, the Agencies intend to take any fleet incentive rebates (unless government bid assistance is greater), standard equipment discounts, optional equipment discounts, and all other discounts offered by the manufacturer. These discounts will be taken at the time factory installed options are selected by the Ordering Agency at the time of order placement.
- 9.2. Additional fleet credits, rebates, etc. such as fleet fuel delete credit, fleet incentive rebate credit, retail amenity delete credit, deductions for deletions of standard equipment (spare tires, air conditioning, etc.) must not be part of the Dealer Net Invoice price.

10. REQUIREMENTS

- 10.1. Each vehicle must be the latest fleet model vehicle of the manufacturer's current standard production, as offered to commercial trade. Though they are not specifically covered herein, all parts necessary to provide a complete and efficient vehicle must be furnished. All parts must conform in design, strength, quality of materials, and workmanship to current

engineering practices and accepted standards of the industry. The Contractor represents that the vehicle, accessories, and ancillary equipment provided under this specification are new at time of delivery. NOTE: For a vehicle to be considered "new", the vehicle must be delivered with no more than two hundred (200) miles registered on the odometer.

- 10.2. All equipment, including standard and supplemental, must be installed per the manufacturer's specifications, and the vehicle must be serviced and ready for continuous operation at the time of delivery.
- 10.3. All factory installed optional equipment and accessories over and above those that are standard equipment on the model being ordered will be priced at Dealer Invoice price as listed in Carbook Fleet Edition, as published by Chrome Data Solutions, www.chromedata.com. Prices of optional equipment/accessories may increase or decrease based on model year and/or manufacturer's cost. Invoices must reflect contract prices in effect on the date the order is placed by the Ordering Agency
- 10.4. No advertising, such as decals or insignia indicating dealer identity, are to be affixed to any vehicle ordered under the resulting contract(s). Contractor is responsible for any cost incurred for removal of such items.
- 10.5. Upon request from the Ordering Agency, the Contractor must supply a manufacturer build-out sheet that provides a breakdown of the standard equipment for the base model vehicle being ordered.
- 10.6. Each vehicle must be furnished with a minimum of one-quarter (1/4) tank of fuel.
- 10.7. The interior and exterior of the vehicle must be clean and free of any appearance or performance altering defects when delivered to the Ordering Agency.

11. INSURANCE

INSURANCE REQUIREMENTS: Prior to starting work under the contract (or as otherwise designated by the Purchasing Activity), the Contractor must provide certificates of insurance required herein and must maintain the insurance during the life of the Contract. There are no provisions for exceptions to this requirement. Failure to provide the certificates of insurance within the requisite time period may be cause for cancellation of the contract.

Contractor shall carry liability and property damage insurance that must protect it and the State of Idaho from claims for damages for bodily injury, including accidental death, as well as for claims for property damages, which may arise from operations under the Contract whether such operations be by themselves or by anyone directly or indirectly employed by either of them.

Contractor shall not commence work under the Contract until it obtains all insurance required under this provision and furnishes a certificate or other form showing proof of current coverage to the State. All insurance policies and certificates must be signed copies. After work commences, Contractor must keep in force all required insurance until the Contract is terminated. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the State.

- 11.1. Commercial General and Umbrella Liability Insurance. Contractor shall maintain Commercial General Liability (CGL) and, if necessary, Commercial Umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this Contract.
 - 11.1.1. CGL insurance shall be written on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage) and shall cover liability arising from

premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

11.2. Commercial Automobile and Commercial Umbrella Liability Insurance. Contractor shall maintain Commercial Automobile Liability and, if necessary, Commercial Umbrella Liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto (including owned, hired, and non-owned autos).

11.3. Workers' Compensation Insurance and Employer's Liability. Contractor shall maintain workers' compensation and employer's liability. The employer's liability shall have limits not less than \$1,000,000 each accident for bodily insurance by accident, \$1,000,000 disease policy limit, and \$1,000,000 disease, each employee.

11.3.1. Contractor must provide either a certificate of workers compensation insurance issued by a surety licensed to write workers compensation insurance in the State of Idaho, as evidence that the contractor has in effect a current Idaho workers compensation insurance policy, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

11.4. State of Idaho as Additional Insured: The liability insurance coverage required for performance of the Contract shall include the State of Idaho, the (agency) and its divisions, officers and employees as additional insured, but only with respect to the Contractor's activities to be performed under this Contract.

11.4.1. The Contractor shall provide proof of the State of Idaho, the (agency) and its divisions, officers and employees being additional insured by providing certification of insurance (COI) to the liability insurance policies showing the State of Idaho, the (agency) and its divisions, officers and employees as additional insured. The COI must show the policy number, the policy effective dates, and list the additional insured and certificate holder as State of Idaho/ (agency).

11.4.2. If a liability insurance policy provides for automatically endorsing additional insured when required by contract, then, in that case, the Contractor must provide proof of the State of Idaho, the (agency) and its divisions, officers and employees being additional insured by providing copies of the COI that clearly identify the blanket endorsement.

11.5. Notice of Cancellation or Change: Contractor shall ensure that should any of the above described policies be cancelled before the expiration date thereof, or if there is a material change, potential exhaustion of aggregate limits or intent not to renew insurance coverage(s), that written notice will be delivered to the Division of Purchasing (if the Contract was issued by the Division) or to the Purchasing Activity (contracting state agency) in accordance with the policy provisions.

11.6. Acceptable Insurers and Deductibles: Insurance coverage required under the Contract shall be obtained from insurers rated A-VII or better in the latest Bests Rating Guide and in good standing and authorized to transact business in Idaho. The Contractor shall be financially responsible for all deductibles, self-insured retention's and/or self-insurance included hereunder. The coverage provided by such policy will be primary to any coverage of the State on or related to the contract and shall provide that the insurance afforded applies separately to each insured against whom a claim is made, except with respect to the limitation of liability

11.7. Waiver of Subrogation: All policies shall contain waivers of subrogation. The Contractor waives all rights against the State and its officers, employees, and agents for recovery of damages to the extent these damages are covered by the required policies. Policies may contain deductibles but such deductibles will not be deducted from any damages due to the State.

11.8. Tail Coverage: For claims made policies, the Retroactive Date shall be shown and shall be before the date of the contract or the beginning of contract work; insurance must be maintained and evidence of insurance must be provided for at least three (3) years after completion of the contract of work; if coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the contractor must purchase "extended reporting"(tail) coverage for a minimum of three (3) years after completion of contract work.

12. ORDER PLACEMENTS

12.1 Vehicle orders will be placed for State of Idaho Agencies and Public Agencies per Idaho Code 67-2327 accompanied by a Vehicle Order Form (VOF). "Public Agencies" are further defined in Section 3, Public Agency Clause. It is the responsibility of each State Agency to send the VOF to the Contractor. Public agencies will issue their own Purchase Order and work directly with the Contractor. The Contractor must sign and return the VOF to the State Agency within three (3) business days ARO, acknowledging receipt of the order and placement of the order with the manufacturer.

13. CANCELLATION OF ORDERS

13.1 Orders placed by an Ordering Agency may be cancelled, within thirty (30) calendar days after receipt of order (ARO) by the Ordering Agency. If a Contractor cannot meet the maximum delivery dates outlined in Section 14.3, the Ordering Agency may elect to accept the vehicle, with a revised estimated delivery date, or cancel the existing order at no additional cost or liability to the Ordering Agency or the State.

14. ORDERING AMOUNT AND DELIVERY

14.1. Contractor must make every effort possible to provide an accurate delivery date to the Ordering Agency. Contractor must confirm and notify the Ordering Agency within fourteen (14) calendar days ARO of the build date and scheduled delivery date. In the event confirmation and notice exceeds fourteen (14) calendar days or the maximum allowable dates provided in **Section 14.3**, the Ordering Agency may elect to cancel the order without any penalty or liability to the State.

14.2. Upon delivery, the Ordering Agency will have up to fourteen (14) calendar days to inspect and accept each vehicle to ensure compliance with the specifications. If the Ordering Agency determines that any vehicle is not in accordance with the specifications, the Contractor must pick-up, correct any deviations, and re-deliver to the Ordering Agency's delivery destination at the Contractor's expense. The timeframe for completion of corrective action must not exceed thirty (30) calendar days from receipt of written notification from the Ordering Agency's designated individual.

14.3. The Contractor(s) will have the following maximum number of calendar days for delivery of vehicles, after receipt of order (ARO):

<u>Vehicle Type</u>	<u>Maximum Days ARO</u>
All Passenger Cars	150
All ½ Ton Pickups	150
All ¾ Ton Pickups	150

All 1 Ton Pickups	150
All Vans (Cargo and Passenger)	150
All Sports Utility Vehicles	150
All Heavy-Duty or Dually Pickups	150
All Cab/Chassis Pickups	150

14.4. The Contractor must supply two (2) sets of pre-tested keys or fobs, marked with the Vehicle Identification Number (VIN), to ensure the keys or fobs are for the vehicle being delivered.

14.5. The Contractor must provide the following documentation to the Ordering Agency, for each vehicle, upon delivery

- 14.5.1. Operator's (owner's) manual;
- 14.5.2. Manufacturer's warranty information;
- 14.5.3. Original Odometer Statement;
- 14.5.4. Copy of Manufacturer's Statement of Origin (MSO);
- 14.5.5. Application for title, properly completed and signed;
- 14.5.6. Vehicle MSRP window sticker;
- 14.5.7. Manufacturer's specifications

15. FINAL DELIVERY LOCATION AND COSTS

- 15.1. Deliveries more than fifty (50) highway miles from the dealer location to the Ordering Agency, one way, may be subjected to additional mileage fees as applicable here:
- 15.2. For each one-way mile over fifty (50) miles, a maximum two-dollar (\$2.00) charge per mile may be assessed at the Contractor's discretion.
- 15.3. For each one-way mile over one hundred (100) miles, a maximum three-dollar (\$3.00) charge per mile may be assessed at the Contractor's discretion.

16. OFF-THE-LOT PURCHASES

- 16.1. Off-the-lot purchases may only be utilized when an Ordering Agency has an immediate need for a vehicle and cannot wait the maximum allowable days for a vehicle to be delivered, or in circumstances where the factory cut-off date for ordering a vehicle has passed and an Ordering Agency has an immediate need and cannot wait for the next build-out date to be provided. The Contractor may, in its discretion, choose not to include factory bid assistance or fleet incentives for vehicles purchased off-the-lot. All off-the-lot purchases must be approved by DOP. DOP approval must be sent with the order form to Contractor. Off-the-lot purchases must be provided with the same warranties as a new fleet vehicle purchase.

17. PRICE ADJUSTMENTS

- 17.1. Contractor(s) may propose a price increase, strictly for the base cost of the vehicle, with each new model year offered. It is the responsibility of the Contractor(s) to notify the State, in writing, of any price increases from the manufacturer. Price increases will be a "pass-through," and must not produce a higher profit margin for the Contractor(s) than the established original contract pricing. Price increases will not be effective until approved by the State.
- 17.2. If price decreases become effective for the Contractor, the State will be given immediate benefit of the price decrease on the date the price decrease became available to the Contractor.
- 17.3. The State may request supporting documentation from the Contractor for price verification of

any of the vehicles currently on contract. The requested documentation must be provided from the manufacturer. This requirement will help ensure that the State is receiving the most current pricing offered by the vehicle manufacturer(s).

17.4. Contractor(s) shall provide current price information, for verification by the State, prior to any price increase.

17.5. Contract pricing, once approved by the State, prices will be posted on the State of Idaho's purchasing website.

18. DEALER AND SALESMAN LICENSE

18.1. Contractors must comply and maintain throughout the life of the Contract with Idaho Code, Section 49, Chapter 16, "Dealers and Salesmen Licensing". Contractors must provide a current copy of their license to sell vehicles upon request.

19. WARRANTY

19.1. All vehicles purchased through the contract must be provided with a minimum bumper-to-bumper three (3) year or thirty-six thousand (36,000) mile warranty on parts (shipping included) and service for both fleet vehicle purchases and vehicles purchased "off-the-lot". If the vehicle is accompanied by an extended powertrain warranty of five (5) years or one hundred thousand (100,000) miles alongside the bumper-to-bumper warranty it shall be provided at no additional charge. The warranty start date will begin when the vehicle(s) has been delivered and accepted by the Ordering Agency. If the standard warranty is greater than the listed minimum three (3) years or thirty-six thousand (36,000) mile bumper to bumper warranty, Contractor must provide the Ordering Agency with that enhanced warranty at no additional cost. Warranty documentation must be supplied to the Ordering Agency upon delivery for each vehicle ordered.

20. REGISTRATION

20.1. Ordering Agencies are responsible for registering new vehicles.

21. NON-EXCLUSIVITY

21.1. The Contractor and State agree this Price Agreement is not an exclusive agreement for the Vehicles listed. State and public agencies may, at their option, choose to use this Price Agreement as they see fit and in their best interests. State and public agencies may utilize additional or alternate price agreements and State contracts.

22. TERMINATION FOR CONVENIENCE

22.1. The State or Contractor may terminate this Price Agreement for any reason with sixty (60) days written notice to the other party.

23. BILLING PROCEDURE

The Contractor shall provide an invoice no later than thirty (30) calendar days after each delivery. Invoices submitted without the information below will be returned to the Contractor for correction and resubmission.

The Contractor shall provide the following information with each invoice:

1. Contract number and Ordering Agency PO number
2. Identification of billing period
3. Total amount billed for the billing period
4. Detailed description of products
5. Name of authorized individual and contact information for Contractor

*****SIGNATURE PAGE FOLLOWS*****

Department of Administration

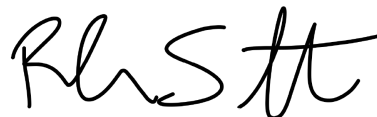
Signature: Kevin Jarrett

Name: Kevin Jarrett

Title: Buyer

Date: 10/31/2025

CONTRACTOR

Signature: 

Name: RICHARD STOUT

Title: COMMERCIAL FLEET SALES DIRECTOR

Date: 10-31-2025

STATE OF IDAHO CONTRACT TERMS AND CONDITIONS

ARTICLE 1 – GENERAL TERMS AND CONDITIONS

1.1. Definitions. Except as defined otherwise in this Contract, the following terms shall have the following meanings, whether capitalized or not, unless the context requires otherwise. Terms not defined within this Contract shall have the meanings defined in Idaho Code section 67-9203 and in IDAPA 38, title 05, chapter 01, Rules of the Division of Purchasing.

- 1.1.1. “Agency” means the board, commission, department, agency, or office of the State receiving the Property provided by the Contractor pursuant to this Contract.
- 1.1.2. “Contract” means this written agreement between Contractor and the State for the acquisition of property, which may be the result of a solicitation, and which may include the Solicitation or specification document and the accepted portions of the bid or proposal and other documents as identified herein, unless the context means one or more agreements with other contractors or for the acquisition or other property.
- 1.1.1. “Contractor” means the offeror, bidder, or proposer selected under the Solicitation to enter a contract with the State and identified as the Contractor in the heading above in this Contract.
- 1.1.2. “Data Breach” means any unauthorized access to or acquisition of Non-Public State Data following a Security Incident that compromises the security, confidentiality, or integrity of the Non-Public State Data, or the ability of the State to access the Non-Public State Data.
- 1.1.3. “Non-Public State Data” means State Data that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the State because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information. Non-Public State Data includes, but is not limited to, Personal State Data.
- 1.1.4. “Personal State Data” means State Data, which alone or in combination with other data, includes information relating to an individual that identifies the individual by name, identifying number, mark, or description that can be readily associated with a particular individual and which is not a public record. Personal State Data includes but is not limited to the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver’s license, passport); financial account information, including account number, credit or debit card numbers; Protected Health Information (PHI) relating to a person; or education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g, records described at 20 U.S.C. 1232g(a)(4)(B)(iv).
- 1.1.5. “Property” means goods, services, parts, supplies, and equipment, both tangible and intangible, including but not limited to, designs, plans, programs, systems, techniques, and any rights or interests in such property.
- 1.1.6. “Protected Health Information (PHI)” means individually identifiable health information held or transmitted by electronic media, maintained in electronic media, or transmitted or maintained in any other form or medium. PHI also includes but may not be limited to information that is a subset of health information, including demographic information collected from an individual, and 1) is created or received by a health care provider, health plan, employer, or health care clearinghouse; and 2) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; and a) that identifies the individual; or b) with respect to which there is a reasonable basis to believe the information can be used to identify the

- individual.
- 1.1.7. "Purchasing Administrator" means the administrator of the Department of Administration, Division of Purchasing.
 - 1.1.8. "Purchasing Authority" means the state entity authorized to enter into the Contract, which shall be either the Department of Administration, Division of Purchasing, or the Agency.
 - 1.1.9. "Security Incident" means the unauthorized access to Contractor's network that the Contractor or the State believes could reasonably result in the use, disclosure, or theft of the State's Non-Public State Data within the possession or control of Contractor. A Security Incident also includes a security breach to Contractor's system, regardless of if Contractor is aware of unauthorized access to the State's Non-Public State Data. A Security Incident may or may not turn into a Data Breach.
 - 1.1.10. "Software" means a series of instructions or statements in a form acceptable to a machine that processes data and is designed to cause the machine to execute an operation or operations. Software includes, but is not limited to operating systems, assemblers, compilers, interpreters, data management systems, utility programs, and Automatic Data Processing Equipment Maintenance/Diagnostics programs.
 - 1.1.11. "State" means the state of Idaho including each board, commission, department, agency, or office of the state of Idaho, unless the context means one or more other states of the United States.
 - 1.1.12. "State Data" means all information and data developed, documented, derived, stored, installed, or furnished by the State under the Contract, including all data related to records owned by the state of Idaho.
 - 1.1.13. "Solicitation" means an invitation to bid (ITB), request for quotes (RFQ), or request for proposals (RFP) issued by the State for the purpose of soliciting bids, proposals, or quotes resulting in the Contract.

1.2. Term

- 1.2.1. Initial Term. The initial term of the Contract shall commence on the Effective Date and expire on the Service End Date identified in the header of this Contract.
- 1.2.2. Renewal Options. Upon mutual, written agreement by the parties, the Contract may be extended under the same terms and conditions for the time interval equal to the initial term, or for such period of time as to agreed to by the parties. The Contract is not anticipated to exceed two (2) years including all renewals.

1.3. Price

- 1.3.1. Price. The pricing for the Contract is included in the Pricing sheets sent by each dealership. The Pricing sheets may be located on the Division of Purchasing's website under Statewide contracts.
- 1.3.2. Price Increases. Except as set forth in this section, prices shall not increase during the initial term or during any renewal or extension term. Unless accepted by the Purchasing Authority in writing or provided for in the Contract, prices shall not increase between the prior term and a renewal term. The Purchasing Authority may accept a price increase

during a term or upon renewal as provided in Contract or upon submission of evidence by Contractor that Contractor's costs have increased by causes beyond the control and without the fault or negligence of Contractor, and that Contractor could not have included in its offered price because they were unforeseeable or because the Solicitation did not contemplate future pricing.

1.4. Termination and Remedies

- 1.4.1. Termination for Contractor Default. The State may terminate the Contract, any order issued pursuant to the Contract, or both when the Contractor has been provided written notice of default or non-compliance and has failed to cure the default or non-compliance within a reasonable time, which time shall be determined in the sole discretion of the Purchasing Authority. If the default or non-compliance is not capable of cure or if the cure requires more than thirty (30) calendar days, the Purchasing Authority may provide notice of termination without a cure period. The State shall not be required to provide advance written notice or a cure period and may immediately terminate this Contract in whole or in part if the State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Contract.
- 1.4.2. Effect of Termination
 - 1.4.2.1. If the Contract is terminated for default or non-compliance, the Contractor will be liable for any costs resulting from the State's award of a new contract and any damages incurred by the State. The State, upon termination for default or non-compliance, reserves the right to take any legal action it may deem necessary including, without limitation, offset of damages against payment due.
 - 1.4.2.2. Unless provided otherwise in the Contract, upon termination by the Purchasing Authority for default or non-compliance, Contractor shall:
 - a) promptly discontinue all work, unless the termination notice directs otherwise;
 - b) promptly return to the State any Property provided by the State pursuant to this Contract; and
 - c) deliver or otherwise make available to the State all data, reports, estimates, summaries and such other information and materials as may have been accumulated by Contractor in performing this Contract, whether completed or in process, which the Contractor is obligated by the Contract or law to provide to the State upon completion.
- 1.4.3. Remedies. In addition to any remedies available to the State under law or equity, the State may, at its sole discretion, take or require one (1) or more of the following remedial actions if the Contractor's performance is deficient and does not comply with the Contract requirements: 1) require the Contractor to take corrective action to ensure that performance conforms to Contract requirements; 2) reduce payment to reflect the reduced value of the performance received; 3) require the Contractor to subcontract all or part of the service at no additional cost to the State; 4) withhold payment or require payment of actual damages caused by the deficiency; 5) withhold payment or require payment of liquidated damages, if liquidated damages are provided for in the Contract;

6) secure the deficient products or services and deduct the costs of products or services from payments to the Contractor under the Contract; 7) require Contractor to remove, at its sole expense, any non-conforming or deficient Property from the State's premises; or
8) terminate the Contract pursuant to any termination provisions within the Contract. These remedies are cumulative to the extent the remedies are not inconsistent, and the State may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever.

1.5. Changes and Modifications

- 1.5.1. Amendments. Except as provided herein for ministerial changes, the Contract may be modified or amended only upon written consent of the Purchasing Authority and Contractor. The Contract may not be released, discharged, changed, extended, modified, subcontracted or assigned in whole or in part (collectively, an "Amendment") except to the extent provided by a written instrument signed by the Contractor and the Purchasing Authority. The Purchasing Authority is authorized to execute any Amendment. The Agency is authorized to execute Amendments consisting solely of plans required by the Contract and ministerial or administrative documents that further define the day-to-day responsibilities of the Contractor and the Agency. The Agency is not authorized to execute Amendments directly or indirectly increasing monetary obligations of the State, expanding the scope of the Contract or extending the Contract term. An Amendment not executed in compliance with this section is voidable, at the option of the Purchasing Administrator.
- 1.5.2. Ministerial Changes. In the event the State discovers or is notified of a typographical or other ministerial or clerical error in the Contract, the Purchasing Authority may correct such error after providing notice to the Contractor of its intent to make the correction and an opportunity for the Contractor to object that the proposed correction is not ministerial or clerical. The Purchasing Authority will make a copy of the corrected Contract available to the Contractor upon the effectiveness of the correction.
- 1.5.3. Material Changes. Amendments to the Contract shall be in compliance with the State Procurement Act, Idaho Code title 67, chapter 92. The Purchasing Authority may accept material changes with an amendment if such changes could not reasonably been anticipated by the parties at the time of the Solicitation and do not frustrate the competitive process or provide the Contractor with an unfair advantage, as determined by the Purchasing Administrator in his or her sole discretion.

1.6. No Personal Liability. Contractor specifically understands and agrees that in no event shall any official, officer, employee or agent of the State be personally liable or responsible for any representation, statement, covenant, warranty or obligation contained in, or made in connection with, this Contract, express or implied.

1.7. Contract Relationship; Workers' Compensation Insurance

- 1.7.1. Independent Contractor. Contractor's status under the Contract shall be that of an independent contractor, and not that of an agent or employee. Contractor is solely liable for all labor, taxes, insurance, required bonding, and other expenses, except as specifically stated herein. Contractor shall exonerate, indemnify and hold the State harmless from and against and assume full responsibility for payment of all federal, state and local taxes or contributions imposed or required under unemployment insurance, social security,

workman's compensation and income tax laws with respect to Contractor or Contractor's employees engaged in performance under the Contract.

- 1.7.2. Workers' Compensation Insurance. Contractor shall maintain worker's compensation insurance as required by law and shall provide certificate of same if requested by the State. Failure to provide a certificate of worker's compensation insurance may result in termination of the Contract. Provision of workers' compensation insurance by the State under this provision shall be in the name of the Contractor as employer and shall not alter the independent contractor status of Contractor under the Contract. Contractor must provide either a certificate of worker's compensation insurance issued by a surety licensed to write worker's compensation insurance in the state of Idaho, as evidence that the Contractor has in effect a current Idaho worker's compensation insurance policy, or an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

1.8. Taxes. The State is generally exempt from payment of state sales and use taxes and from personal property tax for Property purchased for its use. The State is generally exempt from payment of federal excise tax under a permanent authority from the District Director of the Internal Revenue Service (Chapter 32 Internal Revenue Code). The State will furnish exemption certificates upon written request by Contractor. If Contractor is required to pay any taxes incurred as a result of doing business with the State, Contractor shall be solely responsible for the payment of those taxes.

1.9. General Indemnification and Insurance

- 1.9.1. Contractor's Indemnification. Contractor shall indemnify, defend, and save harmless the State, its officers, agents, employees, and volunteers from and against any and all liability, claims, damages, losses, expenses, actions, settlements, attorneys' fees, and suits whatsoever caused by, arising out of, or in connection with Contractor's acts or omissions under this Contract or Contractor's failure to comply with any state or federal statute, law, regulation, or rule during performance or applicable to the performance of the Contract.
- 1.9.2. Actions on Tender; Limitation. Upon receipt of the State's tender of indemnity and defense, Contractor shall immediately take all reasonable actions necessary, including, but not limited to, providing a legal defense for the State, to begin fulfilling its obligation to indemnify, defend, and save harmless the State. Contractor's indemnification and defense liabilities described herein shall apply regardless of any allegations that a claim or suit is attributable in whole or in part to any act or omission of the State under the Contract. Contractor shall not be required to hold the State harmless for damages attributed to the State in a final order issued by a court of competent jurisdiction. If it is determined by a final judgment that the State's negligent act or omission is the sole proximate cause of a suit or claim, the State, to the extent funds are legally available therefore, shall reimburse Contractor for reasonable defense costs attributable to the defense provided by any Special Deputy Attorney General appointed pursuant to section 9.3

- 1.9.3. Requirements of Defense. Any legal defense provided by Contractor to the State under this section must be free of any conflicts of interest, even if retention of separate legal counsel for the State is necessary. Any attorney appointed to represent the State must first qualify as and be appointed by the Attorney General of the State of Idaho as a Special Deputy Attorney General pursuant to Idaho Code Sections 67-1401(13) and 67-1409(1).
- 1.9.4. Insurance. Contractor shall furnish and maintain insurance coverages as set forth on **Section 11 - Insurance** of this Contract.

1.10. Patent and Copyright Indemnity

- 1.10.1. Indemnity. Contractor shall indemnify and hold the State harmless and shall defend at its own expense any action brought against the State based upon a claim of infringement of a United States' patent, copyright, trade secret, or trademark for Property purchased under the Contract. Contractor shall pay all damages and costs finally awarded and attributable to such claim, but such defense and payments are conditioned on the following: 1) that Contractor shall be notified promptly in writing by the State of any notice of such claim; 2) that Contractor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise and State may select at its own expense advisory counsel; and 3) that the State shall cooperate with Contractor in a reasonable way to facilitate settlement or defense of any claim or suit.
- 1.10.2. Limitation. Contractor shall have no liability to the State under any provision of this clause with respect to any claim of infringement that is based upon: 1) the combination or utilization of the Property with machines or devices not provided by the Contractor other than in accordance with Contractor's previously established specifications unless such combination or utilization was disclosed in the Solicitation or the specifications; 2) the modification of the Property unless such modification was disclosed in the Solicitation or the specifications; or 3) the use of the Property not in accordance with Contractor's previously established specifications unless such use was disclosed in the Solicitation or the specifications.
- 1.10.3. Option to Replace, Modify, or Refund. Should the Property become, or in Contractor's opinion be likely to become, the subject of a claim of infringement of a United States' patent, the Contractor shall, at its option and expense, either procure for the State the right to continue using the Property, to replace or modify the Property so that it becomes non-infringing, or to grant the State a full refund for the purchase price of the Property and accept its return.

1.11. Billing

- 1.11.1. Contract Numbers on all Documentation. Contractor shall clearly show the State's Contract number or Purchase Order number on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.
- 1.11.2. Invoices. Contractor shall submit all invoices directly to the Agency.
- 1.11.3. Payment Processing. Invoices shall be accepted and processed for payment in accordance with Idaho Code sections 67-2302 and 67-9218.

1.12. Assignment, Merger, Consolidation, or Change of Contractor

- 1.12.1. Application of Idaho Statutes. Assignments, mergers, consolidations, and changes of the Contractor under this Agreement are subject to the provisions of Idaho Code sections 67- 1027 and 67-9230.
- 1.12.2. Consent to Assign. Contractor shall not assign this Contract, or its rights, obligations, or any other interest arising from the Contract, or delegate any of its performance obligations, without the express written consent of the Purchasing Administrator and the Idaho Board of Examiners.
- 1.12.3. Consent to Change of Contractor. Any entity into which Contractor may be merged or with which it may be consolidated, any entity resulting from any merger or consolidation to which Contractor is a party, or any entity succeeding to the business of Contractor shall not become the successor of Contractor without first obtaining the prior written approval of the Purchasing Administrator and the Idaho State Board of Examiners.
- 1.12.4. Effect of Non-Compliance. At the option of the Purchasing Administrator, transfer without approval required by this section shall cause the annulment of the Contract. All rights of action for any breach of the Contract are reserved to the State notwithstanding such annulment. As provided in Idaho Code section 67-1027, the State shall not be obligated to pay the assignee until the assignment is recognized by the Idaho Board of Examiners and no damages shall accrue to Contractor or the assignee arising from the State's assignment and payment processes pursuant to Idaho Code sections 67-1027 and 67-9230.

1.13. Subcontracting. Unless otherwise allowed by the State in this Contract, Contractor shall not, without written approval from the State, enter into any subcontract relating to the performance of this Contract or any part thereof. Approval by the State of Contractor's request to subcontract or acceptance of or payment for subcontracted work by the State shall not in any way relieve the Contractor of any obligation under this Contract. The Contractor shall be and remain liable for all damages to the State caused by negligent performance or non-performance of work under the Contract by Contractor's subcontractor or its sub-subcontractor. Except where the State has approved in writing a Contractor subcontract with other insurance provisions, Contractor must require all of its subcontractors under this Contract to purchase and maintain the insurance coverage set forth in the Contract for the Contractor in connection with the performance of work by the approved subcontractor.

1.14. Compliance with Law, Licensing, and Certifications. Contractor shall comply with all requirements of federal, state and local laws and regulations applicable to Contractor or to the Property provided by Contractor pursuant to the Contract. For the duration of the Contract, Contractor shall maintain in effect and have in its possession all licenses and certifications required by federal, state and local laws and rules.

1.15. State's Confidential Information

- 1.15.1. Collection and Ownership. Pursuant to the Contract, Contractor may collect, or the State may disclose to Contractor, financial, personnel or other information that the State regards proprietary or confidential ("Confidential Information"). Such Confidential Information shall belong solely to the State. The State may require that Contractor's officers, employees, agents or subcontractors agree in writing to the obligations contained in this section.

The Agency may require that Confidential Information be returned to the Agency upon termination of this Contract subject to Contractor's document retention procedures as required by law.

- 1.15.2. **Use.** Contractor shall use such Confidential Information only in the performance of its services under the Contract and shall not disclose Confidential Information or any advice given by it to the State to any third party, except for the following:
 - 1.15.2.1. With the State's prior written consent;
 - 1.15.2.2. Under a valid order of a court or governmental agency of competent jurisdiction and then only upon timely notice to the State unless prohibited by such order; or
 - 1.15.2.3. In response to any electronic discovery, litigation holds, discovery searches and expert testimonies related to the State's data under the Contract, or which in any way might reasonably require access to the State's data and then only upon timely notice to the State, unless prohibited by law from making such contact.
- 1.15.3. **Limitation.** Confidential Information shall not include data or information that:
 - 1.15.3.1. Is or was in the possession of Contractor before being furnished by the State, provided that such information or other data is not known by Contractor to be subject to another confidentiality agreement with or other obligation of secrecy to the State;
 - 1.15.3.2. Becomes generally available to the public other than as a result of disclosure by Contractor; or
 - 1.15.3.3. Becomes available to Contractor on a non-confidential basis from a source other than the State, provided that such source is not known by Contractor to be subject to a confidentiality agreement with or other obligation of secrecy to the State.

1.16. Public Records. Pursuant to the Idaho Public Records Act, Idaho Code title 74, chapter 1, records, including documents in all forms, received from the Contractor may be open to public inspection and copying unless exempt from disclosure. The Contractor shall clearly designate individual portions of records as "exempt" on each page of the record containing exempt portions and shall indicate the basis in the Idaho Public Records Act for such exemption. The State will not accept the marking of an entire record as exempt. In addition, the State will not accept a legend or statement on one (1) page that all, or substantially all, of the record is exempt from disclosure. Contractor shall indemnify and defend the State against all liability, claims, damages, losses, expenses, actions, attorney fees and suits whatsoever for honoring Contractor's designation of exemption or for Contractor's failure to designate a record as exempt. Contractor's failure to designate as exempt any record or portion of a record that is released by the State shall constitute a complete waiver of any and all claims for damages caused by any such release. If the State honors a claim of exemption by Contractor, Contractor shall provide the legal defense for such claim.

1.17. Use of the State of Idaho's Name. Contractor shall not, prior to, in the course of, or after performance under the Contract, use the State's name in any advertising or promotional media, including press releases, as a customer or client of Contractor without the prior written consent of the State.

1.18. Fiscal Necessity and Non-Appropriation. The State is a government entity and it is understood and agreed that the State's payments herein provided for shall be paid from Idaho State Legislative appropriations. The Legislature is under no legal obligation to make

appropriations to fulfill this Contract. This Contract shall in no way or manner be construed so as to bind or obligate the State of Idaho beyond the term of any particular appropriation of funds by the State's Legislature as may exist from time to time.

The State reserves the right to terminate this Contract in whole or in part (or any order placed under it) if, in its sole judgment, the Legislature of the State of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the State to continue such payments, or requires any return or "give-back" of funds required for the State to continue payments, or if the Executive Branch mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available, or if the State discontinues or makes a material alteration of the program under which funds were provided. The State shall not be required to transfer funds between accounts in the event that funds are reduced or unavailable.

All affected future rights and liabilities of the parties shall thereupon cease within ten (10) calendar days after notice to the Contractor. Further, in the event of non-appropriation, the State shall not be liable for any penalty, expense, or liability, or for general, special, incidental, consequential or other damages resulting therefrom.

1.19. Notices. Any notice given in connection with the Contract shall be given in writing and shall be delivered either by hand to the other party or by certified mail, return receipt requested, to the other party at the other party's address provided in the header of this Contract. Either party may change its address by giving notice of the change in accordance with this paragraph.

1.20. Authority to Conduct Business in Idaho; Service of Process. Contractor must independently determine whether Contractor is required to register with the Idaho Secretary of State, and, if so, must register and remain in good standing for the term of this Contract. If Contractor is not registered with the Idaho Secretary of State, Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested, at its address for notices under this Contract. Service shall be completed upon Contractor's actual receipt of process, or upon the State's receipt of the return thereof by the United States Postal Service, or a reasonable delivery service if Contractor's address is outside the United States, as refused or undeliverable.

1.21. Required Certifications.

- 1.21.1. Boycott of Israel. Pursuant to Idaho Code section 67-2346 (effective July 1, 2021), if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of goods or services from Israel or territories under its control.

services from Israel or territories under its control. The terms in this section defined in Idaho Code section 67-2346 shall have the meaning defined therein.

- 1.21.2. Ownership or Operation by China. Pursuant to Idaho Code section 67-2359, Contractor certifies that it is not currently owned or operated by the government of China and will not for the duration of the Contract be owned or operated by the government of China. The terms in this section defined in Idaho Code section 67-2359 shall have the meaning defined therein.
- 1.21.3. Boycott of Various Industries. Pursuant to Idaho Code section 67-2347A (effective July 1, 2024), if payments under the Contract exceed one hundred thousand dollars (\$100,000) and Contractor employs ten (10) or more persons, Contractor certifies that it is not currently engaged in, and will not for the duration of the Contract engage in, a boycott of any individual or company because the individual or company: a) engages in or supports the exploration, production, utilization, transportation, sale, or manufacture of fossil fuel- based energy, timber, minerals, hydroelectric power, nuclear energy, or agriculture; or b) engages in or supports the manufacture, distribution, sale, or use of firearms. The terms in this section defined in Idaho Code section 67-2347A shall have the meaning defined therein, including through reference to another section of Idaho Code.

1.22. Non-waiver. The failure of any party, at any time, to enforce a provision of the Contract shall in no way constitute a waiver of that provision, nor in any way affect the validity of the Contract, any part hereof, or the right of such party thereafter to enforce each and every provision hereof.

1.23. Attorney Fees. Notwithstanding any statute to the contrary, in the event suit is brought by any party to this Contract to enforce the terms of this Contract or to collect any moneys due hereunder, the prevailing party shall be entitled to recover reimbursement for reasonable attorneys' fees and costs, in the amount determined by the court, in addition to any other available remedies.

1.24. Force Majeure. Neither Contractor nor the State shall be liable for or deemed to be in default for any delay or failure to perform under the Contract if such delay or failure to perform results from unforeseeable causes including, but not restricted to, acts of God or the public enemy, fires, floods, epidemics, quarantine, restrictions, strikes, freight embargoes, or unusually severe weather. The unforeseeable cause must be beyond the control and without the fault or negligence of the party asserting it. Matters of the Contractor's finances shall not be a force majeure. The excused party is obligated to promptly perform in accordance with the terms of this Contract after the unforeseeable cause ceases. Unless otherwise agreed in writing by the parties, the period for the performance shall be extended for a period equivalent to the period of the force majeure delay.

1.25. Entire Agreement; Headings

- 1.25.1. Complete Statement of Terms. The Contract constitutes the entire agreement between the State and Contractor and shall supersede all previous proposals, oral or written, negotiations, representations commitments, and all other communications between the parties.

- 1.25.2. Conflicting and Supplemental Terms. Unless specifically accepted by the Purchasing Authority in writing, terms in documents outside of this Contract shall be of no force and effect.
- 1.25.3. Headings. All headings in this agreement are for convenience only and shall not affect the meaning of any provision hereof.

1.26. Governing Law. The Contract shall be construed in accordance with and governed by the laws of the state of Idaho. Any action to enforce the provisions of the Contract shall be brought in State district court in Ada County, Boise, Idaho.

1.27. Severability; Survival

- 1.27.1. Severability. If any part of this Contract is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.
- 1.27.2. Survival. Any termination, cancellation, or expiration of the Contract notwithstanding, provisions which are intended to survive and continue shall survive and continue.

1.28. Sovereign Immunity. Nothing contained herein shall be deemed to constitute a waiver of the State's sovereign immunity, which immunity is hereby expressly reserved.

1.29. Electronic Signature; Counterparts

- 1.29.1. This Contract may be electronically signed. Any electronic signatures appearing on this Contract are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.
- 1.29.2. This Contract may be executed in two (2) or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

ARTICLE 2 – TERMS APPLICABLE TO THE PURCHASE OF GOODS

The following terms apply to the purchase of goods, which generally means the purchase of physical property that is delivered to the State. In the event of uncertainty as to the applicability of these terms, they shall be deemed applicable unless the State has explicitly stated that they do not apply.

2.1. Property – Goods

- 2.1.1. Specifications. Contractor shall deliver all Property in accordance with **Section 10 – Requirements**. Contractor's failure to deliver the Property as provided in this Contract is a material breach of this Contract.
- 2.1.2. New and Unused Property. Unless otherwise provided in the Specifications, all Property delivered by Contractor shall be new, unused, not previously installed or demonstrated, and shall be within current production inventory of the manufacturer or actively being marketed by the Contractor.
- 2.1.3. Components. Unless otherwise provided in the Specifications, all Property delivered by Contractor shall:
 - 2.1.3.1. Include all components and accessories that the manufacturer identifies or lists as "standard."
 - 2.1.3.2. Includes all components, hardware and parts necessary for complete and proper assembly, installation and operation of the Property.

2.2. Acceptance. Where an acceptance procedure is not set forth in the specifications the following shall apply. If no procedure is set forth in the specifications, the State may, in its sole discretion, conduct such testing and inspection as the State deems necessary.

- 2.2.1. No Installation of Property. When the Contract does not require installation, Acceptance shall occur fourteen (14) calendar days after delivery, unless the State has notified the Contractor in writing that the Property does not meet the specifications.
- 2.2.2. Installed Property. When the Contract requires installation, acceptance shall occur fourteen (14) calendar days after completion of installation, unless the State has notified the Contractor in writing that the products(s) delivered does not meet the specifications or that the Property is not installed correctly.
- 2.2.3. Revocation of Acceptance. The State may revoke acceptance as provided by Idaho Code section 28-2-608 and as provided in Paragraph 2.3 of this Article 2. Upon revocation, the State shall deliver written notice of revocation to Contractor specifying the defect or nonconformance, whether the Contractor is permitted to cure the defect or nonconformance and the time period for cure, if permitted.
- 2.2.4. Effect of Rejection or Revocation of Acceptance. If the State rejects the Property or revokes acceptance of the Property, Contractor shall refund all payments the State made to the Contractor for the Property and shall, at no cost to the State, remove the Property in the State's possession as provided in the notice of rejection or revocation. If no date of removal is specified, Contractor shall remove the Property within fourteen (14) calendar days of the notice.

2.3. Non-compliance, Recall, and Regulatory Compliance. If all or a portion of the Property is recalled by a regulatory body or the manufacturer, or is known or reasonably suspected by Contractor not to comply with applicable regulatory standards, Contractor shall immediately notify the State and shall provide a copy of any notice received by Contractor concerning the Property. Notwithstanding prior acceptance under the Contract, the State may reject or revoke acceptance of Property recalled by a regulatory body or the manufacturer, or that is known or reasonably should be known by Contractor not to comply with applicable regulatory standards, in whole or in part. If the State rejects or revokes acceptance of the Property, Contractor shall remove the Property as provided in Paragraph 2.2.4 of this Article 2 at no cost to the State and shall reimburse the State for all payments made for such Property.

2.4. Warranty. Contractor warrants that the Property shall conform to or exceed the specifications and shall be fit for ordinary use, of good quality, with no material defects. Contractor's warranty shall include replacement, repair, and any associated labor for the period of time required by the specifications or by the standard manufacturer or Contractor provided warranty, whichever is longer. If Contractor is not the manufacturer of the Property, Contractor shall ensure that the full, unadulterated, and undiminished manufacturer warranty is provided by the manufacturer to the State at no additional cost to the State. If a conflict or inconsistency exists between the manufacturer's warranty and Contractor's warranty, the warranty that provides the greatest benefit and protection to the State shall prevail.

2.5. Shipping and Delivery. All Property delivered under this Contract shall be shipped directly to the Agency that placed the order at the location specified by the State, on an F.O.B. Destination freight prepaid and allowed basis with all transportation, unloading, uncrating, drayage, or other associated delivery and handling charges paid by the Contractor. Unless otherwise specified in the Contract, deliveries shall be made to the Agency's receiving dock or inside delivery point, such as the Agency's reception desk. The Contractor shall deliver all orders and complete installation, if required, within the time specified in the Contract. Time for delivery commences at the time the order is received by the Contractor.

2.6. Risk of Loss. Risk of loss and responsibility and liability for loss or damage remains with Contractor until acceptance by the State under the terms of this Contract. Upon acceptance, risk of loss shall pass to the State unless otherwise provided in the Contract and with the exceptions of latent defects, fraud and Contractor's warranty obligations. Loss, injury or destruction prior to acceptance by the State shall not release the Contractor from any obligation under the Contract.

ARTICLE 3 – TERMS APPLICABLE TO THE PURCHASE OF SERVICES - RESERVED

ARTICLE 4 – TERMS APPLICABLE TO THE PURCHASE OF TECHNOLOGY - RESERVED

ARTICLE 5 - TERMS APPLICABLE TO STATEWIDE CONTRACTS

The following terms apply to contracts that are specifically identified as statewide contracts, either in the solicitation or otherwise in the contract document, and to participating addendums issued against a cooperative contract master agreement, unless such participating addendum explicitly states that it is for a single agency/is not a statewide contract.

5.1. Reporting

- 5.1.1. Summary Usage Report. Contractor shall provide a summary usage report on a quarterly basis, according to the deadlines below, indicating its total net sales for the previous quarter and the corresponding Administrative Fee. Contractor shall email reports to purchasing@adm.idaho.gov.

Reporting Period (Fiscal Year Quarters)	Fee and Report Due Date
1st Quarter (July 1 – September 30)	November 30th
2nd Quarter (October 1 – December 31)	February 28th
3rd Quarter (January 1 – March 31)	May 31st
4th Quarter (April 1 – June 30)	August 30th

- 5.1.2. Detailed Usage Report. Contractor shall provide a detailed usage report on a quarterly basis, according to the same deadlines and to the same email address identified above in Paragraph 5.1.1. The detailed usage report must include, at a minimum, the purchasing entity (e.g., agency name, school district, etc.), property description, category if applicable, quantity, unit price, and extended price.
- 5.1.3. Additional Reporting. Contractor shall provide any additional reporting as specifically identified in the Contractor or associated master agreement.

5.2. Administrative Fee

- 5.2.1. Application of Administrative Fee. This statewide Contract shall be subject to an Administrative Fee of one and one-quarter percent (1.25%), based on net sales under the Contract, as follows:
- 5.2.1.1. For Contracts that are not issued pursuant to a cooperative contracting master agreement, the prices to be paid by the State (the price offered by Contractor or otherwise agreed to by the State) shall be inclusive of a one and one-quarter percent (1.25%) Administrative Fee.

5.2.1.1.1. Contractor's failure to consider the Administrative Fee when preparing its Solicitation response shall not constitute or be deemed a waiver by the State of any Administrative Fees owed by Contractor to the State as a result of an award.

5.2.1.1.2. Contractor may add the cost of the State of Idaho Administrative fee to invoices if the Contract is a participating addendum pursuant to a cooperative contracting master agreement.

5.2.1.2. On a quarterly basis, Contractor shall remit to State of Idaho, Division of Purchasing, an amount equal to one and one-quarter percent (1.25%) of Contractor's net quarterly Contract sales(sales minus credits).

5.2.1.3. *For Example: If the total of Contractor's net sales to the Agency for one quarter is ten thousand dollars (\$10,000), Contractor must remit \$10,000 x 0.0125, equal to one hundred twenty-five dollars (\$125) to the Division of Purchasing for that quarter, along with the required quarterly usage report detailed in Paragraph 5.1.*

5.2.2. Payment of Administrative Fee. Contractor shall remit the Administrative Fee to the State of Idaho, Attn: Division of Purchasing, PO Box 83720, Boise, Idaho 83720-0075 on the due date identified above in Paragraph 5.1 for reporting.

5.2.3. Refund of Administrative Fee. If the Contract is terminated by the State through no fault of the Contractor, or if item(s) are returned by the State through no fault, act, or omission of the Contractor after the sale of any such item(s) to the State, the State will refund the Contractor any Administrative Fees remitted. Administrative Fees will not be refunded or returned when an item is rejected or returned, or declined, or the Contract terminated by the State due to the Contractor's failure to perform or comply with specifications or requirements of the Contract. If, for any other reason, the Contractor is obligated to refund to the State all or a portion of the State's payment to the Contractor, or the State withholds payment because of the assessment of liquidated damages, the Administrative Fee will not be refunded in whole or in part.

5.2.4. Failure to Remit Administrative Fees. If Contractor fails to remit the Administrative Fee, as provided above, the State, at its discretion, may declare the Contractor in default; terminate the Contract; assess and recover re-procurement costs from the Contractor (in addition to all outstanding Administrative Fees); seek State or federal audits, monitoring or inspections; and/or exclude Contractor from participating in future solicitations. If, for any other reason, the Contractor is obligated to refund to the State all or a portion of the State's payment to the Contractor, or the State withholds payment because of the assessment of liquidated damages, the Administrative Fee will not be refunded in whole or in part.