

State of Oregon



COVER SHEET

Department of Administrative Services
State Procurement Office
On Behalf of

State of Oregon Agencies, ORCPP Members,
Western State Contracting Alliance

Nationwide Vehicle Rental Services

REQUEST FOR PROPOSALS (RFP)
102-1524-09

Date of Issue: June 3, 2009

Proposal Due Date: July 13, 2009, 3:30 PM (Pacific)

Issuing Office: DAS/State Procurement Office

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SECTION 1: GENERAL INFORMATION

1.1 SUMMARY OVERVIEW:

PURPOSE OF SOLICITATION: This is an Request for Proposal (RFP) to provide a Price Agreement for RENTAL OF PASSENGER CARS, LIGHT DUTY PICK-UP TRUCKS, SPORT UTILITY VEHICLES and 7 PASSENGER MINI VANS, 12 PASSENGER AND CARGO VANS and CARGO BOX TRUCKS as listed in this RFP, for the State of Oregon, its participating Oregon Cooperative Purchasing Program members (ORCPP), the Western States Contracting Alliance (WSCA), and other Participants. Oregon is the Lead State for this RFP.

This is a multiple-award opportunity. DAS SPO intends to choose primary and secondary contractor(s). If a Proposer wishes to submit multiple brands as one Proposal, all brands will be evaluated as one and Proposer shall offer all brands at the same rates and terms. If a Proposer wishes to submit separate Proposals for each brand, Oregon Department of Administrative Services State Procurement Office (DAS SPO) will evaluate each brand independently of each other.

DAS SPO intends to award Price Agreements to the highest ranked responsive and responsible Proposers with the highest ranked Proposer being the primary contractor. Participant will look to the primary contractor first for vehicle rental needs. If the primary contractor is sold out or not available in the city the Traveler is going to, then the Participant will order from the secondary contractor(s). The State of Oregon reserves the right to determine the amount of secondary Price Agreements awarded under this RFP. Selection of the number of secondary Price Agreements awarded is dependent upon the number of proposals submitted, and what is in the best interest of the State of Oregon, WSCA, and other Participants.

Proposer's note: The rental contract for an individual vehicle will be the terms and conditions of the Price Agreement, any applicable Participating Addendum, and the transaction details documented in Contractor's Standard Rental Form (see definitions below). Contractor's Standard Rental Form will be only a mechanism to document transaction details as noted below; the terms and conditions in Attachment C and any applicable Participating Addendum supersede all other terms and conditions contained in the Standard Rental Form.

WSCA Background Information: The Western States Contracting Alliance (WSCA) is a cooperative group-contracting consortium for state government departments, institutions, institutions of higher education, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the States of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming. WSCA is a subset of the National Association of State Procurement Officials (NASPO). NASPO is a non-profit association dedicated to strengthening the procurement community through education, research, and communication. It is

made up of the directors of the central purchasing offices in each of the 50 states, the District of Columbia and the territories of the United States.

Exhibit G contains WSCA rules applicable to a WSCA procurement. DAS SPO and Proposers shall comply with Exhibit G to the extent the WSCA rules are consistent with the Oregon law applicable to this solicitation.

The Price Agreement(s) resulting from this procurement (Master Price Agreements) may be used by WSCA member states and their political subdivisions (such as city and county government, and public and institutions of higher education). WSCA price agreements, including the Master Price Agreement(s) resulting from this RFP, may be used by other non-member states with authorization from the WSCA directors and subject to approval of the individual state procurement director and local statutory provisions.

In addition to the Lead State conducting the solicitation, the following Participating States have requested to be named in this RFP as a potential user of the resulting Master Price Agreements. Attachment K to this RFP contains significant state-specific provisions (required by the laws, regulations, or procurement practices) of selected Participating States. The Lead State anticipates other states will sign on after the award process. The following list also includes the Participating States estimated yearly average purchase of vehicle rental services.

STATE	ESTIMATED ANNUAL VEHICLE RENTAL SERVICES PURCHASED
Alaska	\$100,000
Arkansas	\$3,000,000
California	\$13,000,000
Colorado	\$1,550,000
Hawaii	\$50,000
Idaho	\$300,000
Nevada	\$650,000
New Hampshire	\$20,000
Oregon	\$1,750,000
South Dakota	*
Utah	\$670,000
Vermont	\$100,000
Washington	\$2,700,000

* Data not available from these Participating States at this time.

ESTIMATED VOLUME OF RENTALS: The volume of vehicle rental services shown above is estimated for proposal purposes only. The State, WSCA and other Participants, do not guarantee purchase of any amount or type of vehicle rental services under this Price Agreement.

1.2 SCHEDULE OF EVENTS:

Event	Date	Time (Pacific Time)
Solicitation Release	6/03/2009	See ORPIN
Pre-Proposal Conference	6/24/2009	1:30 PM
Deadline for Receipt of Questions/Clarifications/Requests for Approved Equal	6/26/2009	5:00 PM
Deadline for Protest of Solicitation	7/01/2009	5:00 PM
Closing Date and Time for Submittals	7/13/2009	3:30 PM
Posting of Notice of Intent to Award (approximate)	7/27/2009	See ORPIN
Protests of Award	7 days from Notice of Intent to Award	5:00 PM
Contract Execution (approximate)	8/03/2009	See ORPIN

1.3 DEFINITION OF TERMS: Unless otherwise indicated, the definitions in Attachment C, Section 1 are applicable to the entire RFP including the resulting Price Agreement. The following definitions are applicable to this RFP and not applicable to the resulting Price Agreement.

“Addendum” means an addition to or deletion of, a material change in, or clarification of, the RFP. Addenda will be labeled as such, issued by DAS SPO, and will be made available to all interested Proposers as set forth in this RFP.

“Closing Date and Time” means the date and time on or before which all Proposals must be submitted.

“DAS SPO” means the Oregon Department of Administrative Services, State Procurement Office.

“ORPIN” means the Oregon Procurement Information Network.

“Participant” means a governmental body that procures Services from Contractor based on this Price Agreement established by Lead State. Participant includes State, State Agencies, and ORCPP members, and Participating States and Political Subdivisions of Participating States properly authorized by a Participating State to enter into a contract for the purchase of Goods and Services described in this Price Agreement.

“Proposal” means a firm offer submitted in response to a request for proposals.

“Proposer” means a person, organization or governmental entity that submits a response to a request for proposals.

“State” means the State of Oregon.

“Successful Proposer” means the person, organization or governmental entity to which the award is made.

“RFP” means Request for Proposal.

1.4 SINGLE POINT OF CONTACT:

DAS SPO designates the person identified on the cover sheet of this RFP as the only point of contact during this procurement process (“Single Point of Contact”). Proposers and interested persons shall direct to the Single Point of Contact all questions concerning the procurement process, technical requirements of this RFP, contractual requirements, requests for brand approval, change, clarification, and protests, the award process, and any other questions that may arise related to this solicitation.

SECTION 2: SOLICITATION PROCESS

2.1 PROCUREMENT AUTHORITY: DAS SPO is conducting this cooperative procurement pursuant to its authority under OAR 125-246-0170(3).

2.2 PROCUREMENT METHOD: DAS SPO intends to use the competitive sealed proposal method, pursuant to ORS 279A & B and OAR 125-247-0260. This will be a single step multiple award Request for Proposal (RFP) with the intent to select a primary and secondary contractor(s). The highest ranked responsive and responsible Proposers will be awarded Price Agreements, with the highest ranked being the primary Contractor. The evaluation committee will rank highest the Proposal determined by evaluation committee to be the most advantageous to the State, price and other factors considered, in accordance with the criteria described in this RFP.

The State of Oregon reserves the right to determine the number of secondary Price Agreements awarded. Selection of the number of secondary contracts awarded is dependent upon the number of proposals submitted, and what is in the best interest of the State of Oregon, WSCA and other Participants.

2.3 PRE-PROPOSAL CONFERENCE:

Not Applicable

X Applicable: A pre-Proposal conference will be held for this RFP.

Proposer attendance at this conference is:

X Mandatory

Voluntary

DATE	TIME	LOCATION
6/24/2009	1:30 PM	Portland State Office Bldg 800 NE Oregon St. RM 1C Portland, OR 97232

The purpose of this conference is to explain the RFP requirements and to answer any questions Proposers may have. Statements made at the pre-Proposal conference are not binding upon DAS SPO. Proposers are cautioned that the official RFP requirements will change only by written Addenda issued by DAS SPO as provided in subsection 2.7.1. This is a mandatory conference. Proposer must attend this pre-proposal conference to be eligible to submit a Proposal. Proposers may bring no more than three representatives to the pre-proposal conference.

2.4 ORPIN SYSTEM:

2.4.1 RFPs, including all Addenda and attachments, are posted on the Oregon Procurement Information Network (ORPIN) as part of the solicitation document for download by prospective Proposers. Solicitation documents will not be routinely mailed to prospective Proposers. Proposers without access to the ORPIN System may download copies at DAS SPO, 1225 Ferry St. SE – U140, Salem, Oregon. Proposers may also order hard copies from the DAS SPO for a fee.

2.4.2 ATTACHMENTS: If an Exhibit, Attachment or Addendum is used that cannot be viewed or downloaded through the ORPIN System, the solicitation will include instructions on how to obtain these documents.

2.4.3 ORPIN USAGE: Proposers unfamiliar with the ORPIN System may contact DAS SPO at 1225 Ferry St. SE - U140, Salem, OR 97301-4285; telephone number (503) 378-4642.

2.4.4 ORPIN REGISTRATION INFORMATION: Proposers are responsible for ensuring that their registration information is current and correct. DAS SPO accepts no responsibility for missing or incorrect information contained in the supplier’s registration information in ORPIN.

2.5 PRODUCT IDENTIFICATION; REQUESTS FOR CLARIFICATIONS/QUESTIONS:

2.5.1 PRODUCT IDENTIFICATION: This solicitation includes one or more brand-name products, as authorized under ORS 279B.215. Proposers must clearly identify all vehicles offered by brand name and model. DAS SPO reserves the right to reject any Proposal which incompletely identifies the vehicles offered.

2.5.2 "OR APPROVED EQUAL": Any brand name identified in the specifications as "or approved equal" or "or approved equivalent" establishes the minimum requirements for quality, style, workmanship, performance, and other characteristics of the product needed by the State. When the product brand listed in Section 8 is followed by "or approved equal" or "or approved equivalent" a Proposer may offer another product brand if the brand has quality, style, workmanship, performance and other characteristics equal to or better than the product brand named, and the brand named is not mandated pursuant to a brand-name exemption. HOWEVER, Proposer must request approval in advance of these other product brands in accordance with the procedures specified in Section 2.5.4. DAS SPO will not consider alternate Proposals offering lower quality or inferior performance.

2.5.3 DAS SPO MAY DETERMINE, IN ITS SOLE DISCRETION, WHETHER A PRODUCT OFFERED IS "EQUAL." When a product brand is followed by "or equal" or "or equivalent" DAS SPO will decide after the Closing Date and Time whether the product brands offered are equal or equivalent to the product brand name specified in the RFP. When the product brand name is followed by "or approved equal" or "or approved equivalent" DAS SPO will consider timely requests for approval and make its decision concerning alternative brands prior to Closing Date and Time.

2.5.4 REQUEST FOR "APPROVED EQUAL" PRODUCT APPROVAL: DAS SPO will consider requests for approval of brands as "approved equals" or "approved equivalents" of the product brand specified in the RFP unless the product brand specified is identified in the RFP as the subject of a product brand exemption. Requests for brand approval must be submitted in writing to the contact point listed in Section 1.4 "SINGLE POINT OF CONTACT." To be considered, the request for brand approval must be received by DAS SPO by the deadline specified in Section 1.2 Schedule of Events. The request must include all relevant product information.

2.5.2 REQUESTS FOR CLARIFICATION/QUESTIONS/APPROVED EQUAL: All inquiries for clarification, whether relating to the solicitation process, administration, deadline or award, or to the intent or technical aspects of the Services (including requests for approved equals) must be submitted, in writing, to the person identified on the cover sheet of this RFP (mail, fax or email are acceptable) by the deadline identified in Section 1.2 Schedule of Events. No telephone questions will be accepted or considered.

Requests must:

- Identify the Proposer's name and be signed by the Proposer's authorized representative;
- Clearly reference this RFP Number 102-1524-09
- Refer to the specific RFP paragraph number and page and should quote the passage being questioned.
- Be received as described above by the deadline identified in the Schedule of Events, Section 1.2.

When appropriate as determined by DAS SPO, in its sole discretion, revisions, substitutions, or clarifications of the RFP or attached terms and conditions will be issued by Addendum to this RFP. Interpretations, corrections or changes to this RFP will be made by written Addendum, and posted to the ORPIN system. Interpretations, corrections or changes to this RFP made in any other manner do not bind the State of Oregon.

2.6 PROTEST OF RFP: Any Proposer who believes that any Price Agreement term(s), contractual term(s), or Specification(s) are unnecessarily restrictive or limit competition may submit a protest, in writing, to the contact point listed on the cover page of this RFP. This is the Proposer's only opportunity to protest the provisions of this RFP, including but not limited to, the solicitation process, specification/Scope of Services requirements and contract terms and conditions.

Prospective Proposers must submit protests to the person identified in Section 1.4 by the deadline specified in Section 1.2 of this RFP. DAS SPO will not consider any protest received after that deadline. Proposer must include in the protest the identity of the Proposer, a clear reference to this RFP #102-1524-09, the legal and factual grounds for the protest, a description of the resulting prejudice to the Proposer if the protest is not granted, and any proposed changes to the Price Agreement terms, contractual terms or Specifications, and all information required by ORS 279B.405(4)

2.6.1 METHOD OF SUBMITTING REQUESTS FOR MODIFICATION OF RFP PROVISIONS: Proposers must mark envelopes containing requests for clarification, requests for change, requests for approved equal, and Proposal protests as follows:

- Proposal Request for Clarification [or Request for Change or Approved Equal or Protest]
- RFP Number
- Proposal Closing Date and time

Unless the specific deadline is extended by subsequent Addendum, DAS SPO will not consider requests for clarification, requests for change, or protests pertaining to provisions contained in the originally-issued RFP after the date specified in Section 1.2 Schedule of Events.

2.6.2 RESPONSE TO REQUESTS FOR CLARIFICATION: CLARIFICATIONS, WHETHER VERBAL, IN WRITING, OR INCLUDED IN AN ADDENDUM AS A "CLARIFICATION," DO NOT CHANGE SPECIFICATIONS, CONTRACTUAL TERMS, OR PROCUREMENT REQUIREMENTS OF AN RFP. IF A REQUEST FOR CLARIFICATION RAISES AN ISSUE THAT DAS SPO DETERMINES SHOULD BE HANDLED BY FORMALLY AMENDING THE RFP, DAS SPO WILL DO SO ONLY BY ANNOUNCING SUCH A CHANGE IN AN ADDENDUM, NOT THROUGH INFORMATION IDENTIFIED AS A "CLARIFICATION." (Refer to Section 2.7)

2.6.3 RESPONSE TO REQUESTS FOR CHANGE AND PROTESTS: DAS SPO will promptly respond to each properly-submitted request for change and protest. Protests that do include the required information may not be considered by DAS SPO. DAS SPO will receive protests in writing, to the person identified on the cover sheet of this RFP (mail, fax or email are acceptable) by the deadline identified in Section 1.2 Schedule of Events. No telephone protests will be accepted or considered. Where appropriate, DAS SPO will issue RFP revisions via Addenda posted on ORPIN. DAS SPO may also informally respond to Proposer questions. HOWEVER, INFORMAL RESPONSES DO NOT AFFECT THE PROVISIONS OF THE RFP SPECIFICATIONS, PRICE AGREEMENT AND CONTRACTUAL TERMS, AND PROCUREMENT REQUIREMENTS OF THE RFP CAN ONLY BE CHANGED VIA FORMAL ADDENDA ISSUED BY DAS SPO AND POSTED ON ORPIN.

2.7 RFP ADDENDA:

DAS SPO shall advertise RFP Addenda only on the ORPIN system. Proposers are responsible for checking the ORPIN System to determine whether an RFP Addendum has been issued.

RFP Addenda are incorporated into the RFP by this reference and can be viewed and downloaded by registered firms. Proposers should consult ORPIN regularly until the Closing Date and Time to assure that they have not missed any RFP Addendum announcements. DAS SPO is not responsible for sending RFP Addenda to any potential Proposers, whether requested or not.

2.8 PROTEST OF RFP ADDENDUM:

Unless a different deadline is set forth in the RFP Addendum, prospective Proposers may submit a protest of the RFP Addendum by the close of the next business day after the issuance of the RFP Addendum, or no later than 5:00 PM Pacific Time on the last day allowed to submit a Solicitation protest under OAR 125-247-0430, whichever is later. The RFP Addendum protest must be submitted in the same manner as a protest of the RFP under subsection 2.6 above. SPO will not consider requests or protests of matters not added or modified by the Addendum.

SECTION 3. INSTRUCTIONS TO PROPOSER

3.1 ACCEPTANCE PERIOD: Unless otherwise specified in this RFP, for the purpose of award, Proposals are firm offers for a period of (180) calendar days from the Closing Date and Time.

3.2 PROPOSAL SUBMISSIONS (GENERAL):

3.2.1 PROPOSAL FORMAT:

Proposer should describe in detail how Proposer will meet the requirements of this RFP and may provide additional related information with the Proposal. The Proposal should be presented in a format that corresponds to, and references, the sections contained in the specifications or Scope of Services and should be presented in the same order. Responses to each section and subsection should be labeled to indicate which item is being addressed.

Proposals should be straightforward and concise and provide “layman” explanations of technical terms that are used. Emphasis should be focused on responding to the RFP requirements, on providing a complete and clear description of the Proposal, and conforming to the RFP instructions. If a complete response cannot be provided without referencing supporting documentation, you must provide such documentation with the Proposal indicating where the supplemental information can be found. Proposals that merely offer to provide supplies and services as stated in this RFP may be considered non-responsive and may be rejected for further evaluation.

Proposers must complete Attachments B, G and H in Microsoft Excel format. Proposers are to submit these Attachments in both hard copy and electronic form using Microsoft Excel on a CD-ROM or USB flash drive.

DAS SPO prefers to receive Proposals in appropriately sized three-ring binders with an index and tabs identifying separate sections. No oral, electronic, telegraphic, or telephonic Proposals or modifications will be considered.

3.2.2 QUANTITY OF PROPOSALS TO BE SUBMITTED:

A Proposer shall submit to the Single Point of Contact one (1) original and eight (8) copies of the Proposal (less Proposal Pricing Page) and all required supporting information and documents on or before the Closing Date and Time. Proposers shall submit one (1) original Proposal marked “MASTER.” Envelopes, packages or boxes containing the original and the copies should be marked in accordance with subsection 3.2.3. If discrepancies are found between the copies, or between the original and copy or copies, the original “MASTER” will provide for the basis of resolving discrepancies. If one document is not clearly marked “MASTER,” DAS SPO reserves the right to use the original as the Master. If no document can be identified as an original, Proposer’s Proposal may be rejected at the discretion of DAS SPO. A Proposer shall also submit on a CD ROM or USB flash drive one electronic copy of its Proposal in MS Word 2000 or 2003 format.

A Proposer shall submit its Proposal Pricing Page in a separate, sealed envelope, labeled accordingly and placed in sealed carton(s) or package(s) as described in this Section 3.2.2. Prices must be submitted on a pricing matrix (attachment A) in Microsoft Excel format. Proposers shall submit their prices in both hard copy and electronic form using Microsoft Excel on a CD-ROM or USB flash drive.

3.2.3 ENVELOPE, PACKAGE OR BOX LABEL:

Proposals must be clearly labeled and submitted in a sealed envelope, package, or box bearing the following information:

- Name of Proposer
- RFP Number
- Closing Date and Time

Proposers are solely responsible for ensuring that their Proposals are received by DAS SPO in accordance with the solicitation requirements, before the Closing Date and Time, and at the place specified on the cover sheet of this RFP. DAS SPO shall not be responsible for any delays in mail or by common carriers or by transmission errors or delays or mistaken delivery. Proposal deliveries made to another location other than to the address identified on the cover sheet of this RFP will be considered non-responsive unless re-delivery is made to the address identified on the cover sheet of this RFP before the Closing Date and Time. **Proposals may NOT be submitted by facsimile.**

3.2.4 PROPOSAL MODIFICATIONS: No Proposal may be modified after the Closing Date and Time. It is the responsibility of the Proposer to ensure that modified Proposals are submitted before the Closing Date and Time. All modifications made to a Proposal before submission must be made in ink and must be properly initialed by Proposer's authorized representative. Proposals that contain omissions or improper erasures or irregularities may be rejected.

Any Proposer who wishes to make modifications to a Proposal already received by DAS SPO must first withdraw its Proposal in order to make the modification. Withdrawals must be made in accordance with subsection 3.2.5. The revised Proposal may then be resubmitted in accordance with the provisions of this RFP.

Modifications to a Proposal may NOT be submitted by facsimile.

3.2.5 PROPOSAL WITHDRAWAL:

No Proposal may be withdrawn after the Closing Date and Time. If a Proposer wishes to withdraw a submitted Proposal, it must do so prior to the Closing Date and Time. The Proposer must submit a written notice to withdraw, signed by the Proposer's authorized representative and submitted to the person identified on the cover sheet of this RFP.

3.2.6 LATE PROPOSALS:

The Closing Date and Time identified in subsection 1.2, or as modified by Addenda, is FIRM. Proposals will **NOT** be accepted after the Closing Date and Time for consideration in the evaluation process and late Proposals will be returned to the Proposer.

3.2.7 OPENING OF PROPOSALS:

Proposals will be opened and the names of all Proposers will be read at the Closing Date and Time listed in Section 1.2. Proposals will be opened at the DAS SPO Second Floor, 1225 Ferry Street SE, Salem, Oregon.

3.3 PROPOSAL SUBMISSION REQUIREMENTS (PASS/FAIL):

Each Proposal must comply with the following requirements, which will be evaluated on a Pass/Fail basis. Failure to provide any of the information in this section **WILL** result in rejection of the Proposal. DAS SPO reserves the right to determine which Proposals meet the proposal submission requirements of this RFP.

3.3.1 SUBMITTAL DEADLINE:

Proposals must be submitted before the Closing Date and Time. Proposals will **NOT** be accepted after the Closing Date and Time and late Proposals will be returned to the Proposer. DAS SPO reserves the right to extend the Closing Date and Time by Addendum when it is in the best interest of the State of Oregon.

3.3.2 PROPOSAL COVER PAGE:

The Proposer **must** include in their Proposal Submission the attached Proposer Cover Page (Attachment A) signed by a duly authorized representative empowered to legally bind the Proposer to the Proposal submission.

3.3.3 AUTHORIZED SIGNATURE:

Every Proposal must be signed by the person or persons legally authorized to bind the Proposer to the Proposal submission and to the price agreement resulting from this RFP. Upon request by DAS SPO, any representative submitting a Proposal on behalf of the Proposer shall provide a current power of attorney or other document certifying the representative's authority to bind the Proposer. Upon request of DAS SPO, a corporation shall provide a certified copy of the bylaws or resolution of the board of directors showing the authority of the officer signing the Proposal to execute contracts on behalf of the entity.

3.3.4 MATERIAL OR TECHNICAL REQUIREMENTS:

Proposal submissions must contain documentation to demonstrate Proposer's ability to meet the material or technical requirements as defined below in Section 8 of this RFP.

SECTION 4: EVALUATION

4.1 EVALUATION COMMITTEE:

Proposals will be evaluated by DAS SPO and an evaluation committee for completeness and compliance with the requirements of this RFP. If the Proposal is unclear, DAS SPO may ask Proposers to provide clarification.

DAS SPO will review Proposals received on time against the pass/fail Proposal submission requirements identified in subsection 3.3. DAS SPO will forward Proposals which pass the Proposal submission requirements in subsection 3.3 to an evaluation committee that will independently review, score and rank Proposals according to the criteria set forth in subsection 4.2.

4.2 EVALUATION AND SCORING CRITERIA:

Proposals will be evaluated, scored and ranked based on the mandatory requirements and desirable features described in Section 8 below. The Proposer must describe how Proposer meets the requirements that are specified in this RFP as related to those categories.

4.2.1 SECTION 8 REQUIREMENTS AND FEATURES:

The evaluation committee will review on a pass-fail basis all Proposals responsive to Section 3.3 for responsiveness to the mandatory requirements in Section 8. Proposer's failure to comply with the instructions or to submit a complete Proposal may result in the Proposal being deemed non-responsive. Proposals must meet all of the mandatory requirements in order to be scored for desirable features and price. Any Proposal not meeting all the mandatory requirements must be rejected from further consideration for award.

The evaluation committee will score Proposals on desirable features criteria and price. The evaluation committee will independently score the desirable criteria and price to reach a total score for each qualified Proposal submitted. Price proposal information will not be available to the evaluation committee during the evaluation of the desirable criteria. All evaluation committee members' scores will be added and averaged to calculate a total average score for each Proposal. Proposals will be ranked by total average score.

4.2.2 POINT ALLOCATIONS: Point allocations for each scored criterion are identified in the desirable features described in section 8.3 below. There are 2,800 points available for this RFP, with 1,600 points available for pricing, 45 points for references, and 1,155 available for desirable features.

When ever it is mentioned that a percentage of points will be calculated, the following formula will be used. The most competitive Proposer for a criterion (price, desirable feature) will receive the highest number of points.

Example - Allocation of Points for Cost: In this example, the total points possible for cost are 600. The lowest priced Proposer will receive 600 points. Each higher priced Proposer will receive a proportionately lower score calculated as follows:

Proposer A offers a total cost of \$150.
Proposer B offers a total cost of \$170.
Proposer C offers a total cost of \$190.
(All three Proposers meet all requirements.)

Proposer A would receive 600 points.
Proposer B would receive 528 points.
150 divided by 170 equals .88 .88 times 600 equals 528
Proposer C would receive 480 points.
150 divided by 190 equals .80 .80 times 600 equals 480.

Points will be rounded up or down to the nearest whole number.

4.2.3 METHOD OF AWARD: The highest-scored responsive and responsible Proposers meeting all of the requirements of this Request for Proposal will be awarded Price Agreements. DAS SPO reserves the right to award items separately or by grouping items, or by total lot.

4.2.3.1 RESPONSIVENESS: To be considered Responsive, the Proposal must substantially comply with all requirements of the RFP and all prescribed procurement procedures and requirements. In making such evaluation, DAS SPO may waive minor informalities and irregularities.

4.2.3.2 RESPONSIBILITY: Prior to award of a Price Agreement, DAS SPO may investigate Proposer and request information in addition to that already required in the RFP when DAS SPO, in its sole discretion, considers it necessary or advisable in order to evaluate whether the Proposer meets the applicable standards of responsibility identified in ORS 279B.110 and OAR 125-247-0640(1)(c)(F).

4.2.3.3 INSURANCE. The apparent Successful Proposers shall provide all required proofs of insurance to DAS SPO within 10 calendar days of notification of intent to award. See Exhibit C. Failure to present the required proofs within the required period may result in Proposal rejection. Proposers are encouraged to consult their insurance agent(s) about the insurance requirements contained in the RFP prior to Proposal submission.

SECTION 5: INTENT-TO-AWARD

5.1 AWARD NOTIFICATION:

After a final selection is made, DAS SPO will issue an intent- to-award announcement on ORPIN. Proposal files are public records and available for review at DAS SPO by appointment.

5.2 AWARD PROTEST:

Award protest must be submitted to the person identified in the cover sheet of this RFP and must be received within seven (7) calendar days after the date of the notice of intent to award. Award protests must meet the requirements of ORS 279B.410 to be considered. DAS SPO will not consider any protests that are received after this deadline.

DAS SPO will address all timely submitted protests that are in accordance with ORS 279B.410 within a reasonable time following DAS SPO's receipt of the protest and DAS SPO will issue a written decision to the Proposer who submitted the protest. Protests that do not include the required information pursuant to ORS 279B.410 may be rejected by DAS SPO. DAS SPO will receive protests in the following forms:

Faxed protests submitted to person identified on the cover sheet of this RFP.

Emailed protests with attached letterhead submitted to person identified on the cover sheet of this RFP.

Letter submitted to person identified on the cover sheet of this RFP.

SECTION 6: CONTRACT NEGOTIATIONS AND EXECUTION

6.1 CONTRACT NEGOTIATIONS:

6.1.1 NEGOTIATION OF CONTRACT TERMS AND CONDITIONS: By submitting a Proposal, Proposer agrees to enter into a Price Agreement with the terms as shown in Attachment C and the exhibits to that Attachment. For purposes of the cooperative procurement, the resulting Price Agreement is the Master Price Agreement. The Master Price Agreement is the foundations terms and conditions for the acquisition of Contractor's services by Participants. Each Participating State may negotiate its own unique terms and conditions separately in a Participating Addendum. The Price Agreement for a Participating State will be the Master Price Agreement and the negotiated Participating Addendum. Unless a subsection of this RFP has been modified by addendum or DAS SPO has reserved the right to negotiate any contract terms and conditions, DAS SPO WILL NOT negotiate any contract terms or conditions. By Proposal submission, the Successful Proposer(s) agree(s) to be bound by the Master Price Agreement terms and conditions as shown in Attachment C and as modified by Participating Addendum except for those terms and conditions that DAS SPO has reserved for negotiation. Any Proposal that is received conditioned on DAS SPO's acceptance of any other terms and conditions will be rejected. Any subsequent negotiated changes may be subject to prior approval of the Oregon Department of Justice.

6.1.2 NEGOTIABLE ITEMS: The following Price Agreement terms and conditions may be negotiated by the State of Oregon and the apparent Successful Proposer:

- Term of Price Agreement (Length of Price Agreement)
- Extensions
- Prices or Consideration
- Scope of Services

6.1.3 NEGOTIATION PERIOD: If negotiations are not successful within 30 calendar days of the start of negotiations, DAS SPO may terminate negotiations with highest ranked Proposer and begin negotiations with second higher ranked Proposer. DAS SPO reserves the right to conduct serial or simultaneous negotiations pursuant to the Competitive Sealed Proposal: Multi-step Process. **OAR 125-247-0261**

6.2 CERTIFICATE OF INSURANCE: The Successful Proposer(s) will be required to provide Certificates of Insurance to DAS SPO for levels of Insurance coverage shown in Exhibit C of Attachment C prior to contract execution.

6.3 PARTICIPATING ADDENDAS BY PARTICIPATING STATES. As outlined in Section 6.1.1 above, each Participating State will negotiate its own Participating Addendum with the awarded contractors. Each Participating State will execute a Participating Addendum with the primary contractor and determine which vendors to use as secondary contractor(s). Participating States may choose all, some or none of the non-primary contractors to be awarded secondary Price Agreements under a Participating Addendum.

SECTION 7: ADDITIONAL INFORMATION FOR PROPOSER

7.1 GOVERNMENTAL ENTITIES: Government bodies subject to ORS Chapter 190 do not bid or compete on the same basis as private-sector Proposers, however, DAS SPO will initially review Proposals from government bodies according to the same evaluation criteria described in this RFP. Government bodies, submitting Proposals must comply with all applicable Proposal requirements described in this RFP. In addition to any other Proposer selection, DAS SPO reserves the right to enter into an ORS Chapter 190 agreement with any government body for the services or work. Alternatively, DAS SPO reserves the right to cancel this RFP if it would be in the public interest as determined by DAS SPO, and enter into an ORS Chapter 190 agreement with a government body.

7.2 OWNERSHIP OF MATERIALS: All materials submitted in response to this RFP become the property of DAS SPO. Proposals and supporting materials will not be returned to Proposers unless the Proposal is submitted late or the RFP is cancelled.

7.3. COST AND DAMAGES: In accordance with ORS 279B.100, any solicitation or procurement described in a solicitation may be delayed, suspended or canceled and any or all bids or proposals may be rejected in whole or in part, when the delay, suspension, cancellation or rejection is in the best interest of the State as determined by the DAS SPO. The State and DAS SPO are not liable to any bidder or Proposer for any loss or expense caused by or resulting from the delay, suspension, cancellation, or rejection of a solicitation, bid, proposal or award.

7.4 CANCELLATION OR REJECTION OF PROPOSALS: DAS SPO reserves the right to reject any or all Proposals in-whole or in-part, and reserves the right to cancel this RFP at anytime when the rejection or cancellation is in the best interest of the State of Oregon as determined by the DAS SPO. DAS SPO is not liable to any Proposer for any loss or expense caused by or resulting from the rejection or cancellation of a solicitation, Proposal, or award. All Proposals will become part of the public file without obligation to DAS SPO.

7.5 CONFIDENTIAL OR PROPRIETARY INFORMATION: Following the award of a contract, responses to this RFP are subject to release as public information unless the response or specific information contained therein is identified as exempt from public disclosure. Proposers are advised to consult with legal counsel regarding disclosure issues.

If a Proposer believes that any portion of a Proposal contains any information that is considered a trade secret under ORS Chapter 192.501(2), or otherwise is exempt from disclosure under the Oregon Public Records Law, ORS 192.410 through 102.505, each page containing such information must include the following:

“This data is exempt from disclosure under the Oregon Public Records Law pursuant to ORS 192, and is not to be disclosed except in accordance with the Oregon Public Records Law, ORS 192.410 through 192.505.”

Identifying the Proposal, in whole, as exempt from disclosure is not acceptable. Proposers are cautioned that cost information submitted in response to an RFP is generally not considered a trade secret under Oregon Public Records Law. Further, information submitted by Proposer that is already in the public domain is not protected. If Proposer fails to identify the portions of the Proposal that Proposer claims are exempt from disclosure, Proposer is deemed to waive any future claim of non-disclosure of that information. The State is not liable for disclosure or release of any information when authorized or required by law or court order to do so. The State is immune from liability for disclosure or release of information under the circumstances set out in ORS 646.473(3).

DAS SPO's business practice is to schedule requests for inspection of any RFP file after Proposers have been notified of the intent to award.

7.6. RESERVED

7.7 RECYCLED PRODUCTS: Contractors shall use recyclable products to the maximum extent economically feasible in the performance of the contract services or work set forth in this document and the subsequent contract. (ORS 279B.060 (2)(f), and ORS279B.220-279B.235)

7.8 PRICE AGREEMENT AMENDMENTS: DAS SPO reserves the right to amend the Price Agreement resulting from this RFP. All amendments must be in writing and signed by all approving parties before becoming effective. Only DAS SPO has the final authority to execute changes, notices or amendments to the contract pursuant to OAR 125-246-0560.

7.9 RECIPROCAL PREFERENCE: For Proposal price evaluation purposes only, DAS SPO intends to add a percent increase to each out-of-state Proposer's Proposal price which is equal to the percent preference, if any, given to resident Proposers of the Proposer's state. For example, if the Proposer is from a state that grants a ten percent (10%) preference to local Proposers, DAS SPO intends to add ten percent (10%) to that Proposer's Proposal price.

8. TECHNICAL REQUIREMENTS:

8.1 SILENCE OF SPECIFICATIONS: The apparent silence of the RFP specifications as to any detail, or the apparent omission of a detailed description concerning any point, shall be regarded as meaning that only the best commercial practice is to prevail and that only materials and workmanship of first quality are to be used.

8.1.1. However, if any omitted specification results in ambiguity as to material characteristics of the Proposal item, and clarification is necessary to enable a reasonable Proposer in the particular industry to properly identify such characteristics, Proposer shall seek a formal request for clarification as set forth in Section 2.5. Failure to make such a request is at Proposer's risk, and the Proposer awarded the Price Agreement shall be required to provide Services meeting the Participant's needs with regard to any omitted specification for which clarification was not sought.

8.1.2. ADHERENCE TO THE SPECIFICATIONS: Deviations in the Proposal from any of the RFP specifications requirements may result in Proposal rejection. Deviations discovered after Price Agreement formation shall be corrected at no cost to the State or Participant.

8.2 MANDATORY REQUIREMENTS: To be considered responsive, Proposer must meet the following mandatory requirements at the time of the RFP opening. Proposers must demonstrate in their proposals how they meet each of the following requirements.

8.2.1 Must be an established national car rental company with branch locations (locations owned and franchised locations) for vehicle pickup and return in Oregon and nationwide. In Attachments G & H Proposers shall provide a list of each of their locations that will participate in the Price Agreement. See Section 3.2.1.

8.2.2 Must have all required licenses, bonding, facilities, equipment, vehicles, and trained personnel necessary to perform the requirements specified in this RFP.

8.2.3 Must have a minimum of five (5) years of successful commercial experience providing rental car services comparable to those required under the Price Agreement. Points will be given for additional years in business. See Section 8.3.1.

8.2.3.1 Must provide a list of its top 3 customers. Use the form in Attachment F. Customers must be of equal or greater size than Oregon's estimated yearly average purchase of vehicle rental services. Proposer must also complete the process in Attachment I to ask customer references to provide information to State; the customer references may be the top 3 or others to meet the criteria in Attachment I. The State shall contact these customers as part of the evaluation process to verify the information the customers provided. 45 points are available for references. The State will use the reference questionnaire shown in Attachment I when contacting references.

8.2.4 Must have a minimum of \$500 million of gross sales on a yearly basis for five years.

8.2.5 Personnel at all Proposer locations must be knowledgeable with the terms and conditions of the Price Agreement. Proposer must have service available to accommodate 95% of estimated total aggregate volume for the Participating States identified in this RFP. See Section 1.1.

8.2.6 All Proposer franchises shall operate under one corporate name. Proposer must assure 100 percent contract adherence at all locations. Proposer must have the capacity to bind all Proposer owned and Proposer's franchised locations to the terms and conditions of the Proposal and the Price Agreement.

8.2.7 Proposer agrees to all of the requirements shown in the Scope of Services in Exhibit A of Attachment C.

8.2.8 Proposer must have nationwide direct billing capabilities. Participants will choose whether to establish direct billing at the time of creating the Participating Addendum between the Participant and the Contractor.

8.2.9 Proposer must have branch locations at the 2007 top 50 ("Top 50") commercial airline airports as shown at

http://www.faa.gov/news/updates/busiest_airports/index.cfm?airportType=Air_Carrier&year=2007

The branch location may be an on-site, airport consolidated facility, or off site location within close proximity to the airport.

For branch locations located off airport grounds, Proposer must have a shuttle bus that runs a minimum of 15 minute incremental to and from airport and branch location. Branch locations serving major airports must remain open at least one (1) hour after the last flight of the day has arrived at that airport. Shuttle busses must run when branches are open.

Proposers must provide a list of its branch locations serving the Top 50 airports. Proposers are to identify if they are located on airport, at a consolidated facility or off airport. If off-airport, Proposers are to indicate the distance in miles from the airport. Proposers are to identify the hours of operations. Proposers shall also indicate which these branches are franchise locations. Proposers are to provide this information on the grid located in Attachment G. Additional points will be given as described in Section 8.3.5.

8.2.10 Proposer must have on-line booking capabilities. Proposer rates for this Price Agreement must be accessible through all major Global Distribution Systems (GDS).

8.2.11 Proposer must accept all major credit cards including central billing accounts (ghost accounts) for purchases via phone, internet or email.

8.2.12 Proposer must offer unlimited mileage for vehicles for round trip rentals.

8.2.13 Proposers must rent vehicles to Travelers 18 years or older without additional fees or surcharges.

8.2.14 Proposers must provide liability insurance and collision damage waiver at no additional cost within the United States. Proposer shall not charge any loss of use fees to the State, or Participant or Traveler. This insurance shall also cover any optional items added at the time of rental.

8.2.15 Proposers must be able to generate monthly reports to view sales and rental history. Proposer shall describe any reporting functions available. These reports must be in Microsoft Excel format and include the date and location of rental, the Participant and Traveler and base and total cost of rental.

8.2.16 Proposer must be able to generate monthly reports showing loss claims and damages on vehicles caused by Participants' Travelers.

8.2.17 Proposers must have a 24 hour customer service number accessible by a toll free telephone number.

8.2.18 Proposer must offer one way rentals of up 1,000 miles for no additional mileage or drop fees.

8.2.19 Mandatory Vehicle Classes: Proposer must have the following vehicle classes available for rent. The vehicles must be the same or an approved equivalent of the vehicles, as shown below.

For purposes of size classifications, "intermediate" or "standard" is defined as a mid-sized four-door sedan automobile capable of comfortably transporting four adult passengers and four pieces of luggage (luggage to fall within the size category of airline "carry on").

Compact Sedans - Ford Focus, Chevrolet Cavalier,
Dodge Neon or approved equal

Intermediate Sedans – Ford Taurus, Chevrolet Impala,
Pontiac Grand Prix, Oldsmobile Alero,
Dodge Stratus Mazda 626 or approved equal

Full Size Sedans - Mercury Grand Marquis, Ford Crown
Victoria, Buick Century, Dodge Intrepid or
approved equal

Small Sport Utility - Chevrolet S-10 Blazer, Jeep Grand Cherokee,
Dodge Durango, Ford Explorer or approved
equal

Large Sport Utility – Ford Expedition, Chevrolet Tahoe or approved equal

Mini-Van - Chevrolet Astro, Chevrolet Venture,
Dodge Caravan, Chrysler Voyager,
Ford Windstar, Pontiac Montana or approved
equal

12 Passenger Vans – Chevrolet 2500 Express/GMC 2500, Ford E350
or approved equal

8.3 DESIRABLE FEATURES: Proposers are to describe in their Proposals if they meet any or all of the desirable features outlined below. The evaluation committee will give point considerations to each of the desirable features as described. Whenever it is mentioned that a percentage of points will be calculated, the evaluation committee will use the formula described in Section 4.2.2. Proposers are to state the question and then their response in their Proposals.

8.3.1 For each additional five years in business providing commercial rental car services like those described in Section 8.2.3, Proposers will be awarded 5 points, not to exceed 30 points.

8.3.2 It is desirable for all Contractor locations to be under Proposer's corporate governance. Please describe your branch location structure. If Proposer is franchised structure, what controls are in place to ensure 100% contract adherence. Proposers with the most locations under corporate governance will receive 20 points, Proposers with fewer locations will receive a percentage of the 20 points.

8.3.3 What Global Positioning Systems are available? Are they at all locations? Is insurance for GPS included or available? Is there an additional cost? Up to 6 points are available for this section.

8.3.4 It is desired that Proposer offer level three Master Card / Visa processing. Please describe this functionality. Up to 5 points are available for this section.

8.3.5 It is desired the Proposer locations at the Top 50 airports are located either on airport property or a consolidated airport facility. 5 points per each location will be given to Proposers with locations either on airport or a consolidated airport facility.

For off-airport locations, 3 points will be given for each branch location with 1 point per mile being subtracted based on the number of miles the branch is located from the airport. Branches locations exceeding three miles will receive zero points.

It is desired that the Top 50 airport branch locations are open 24 hours per day. 5 Points will be given for each branch open 24 hours. 1 point per each hour the branch is closed will be subtracted from the 5 points. Locations closed 5 or more hours per day will receive zero points.

It is desired that the Top 50 airport branch locations are corporately owned by Proposer. 1 Point will be given per each location that is corporately owned.

8.3.6 It is desired that Proposer have at all commercial air carrier airports in the United States branch locations which are open during all hours of arriving flights. Proposers are to provide their complete list of commercial air carrier airport locations and hours of operations. Proposers shall also indicate which branches are franchise locations. Proposers are to enter this information on Attachment G.

Proposer with the most airport locations shall receive 35 points; Proposers with fewer airport locations will receive a percentage of 35 points.

8.3.7 It is desired that Proposer have city and neighborhood locations throughout cities in the United States. Proposers shall provide a list of city and neighborhood (non-airport) locations and hours of operations. Additionally, it is desired that Proposers have branches at the following locations. If a Proposer doesn't have vehicle rental facilities in the locations below, the

Participating States may use awarded secondary contractors to obtain rental services in these locations.

Cedar City, UT
Elko, NV
Reno, NV
Ellensburg, WA
Vancouver, WA
Bellingham, WA
Pullman, WA
Yakima, WA
Tacoma, WA
Olympia, WA
Pasco, WA
Wenatchee, WA
Walla Walla, WA
Spokane, WA
Salem, OR
Eugene, OR
North Bend, OR
Medford, OR
Pendleton, OR
Klamath Falls, OR
Sacramento, CA
Burbank, CA
Orange County, CA
Oakland, CA
San Jose, CA
Fresno, CA
Long Beach, CA
Palm Springs, CA
San Luis Obispo, CA
Twin Falls, ID
Idaho Falls, ID
Boise, ID
Pocatello, ID
Sun Valley, ID
Morrisville, VT
Montpelier, VT
Waterbury, VT
Burlington, VT
Rutland, VT
St. Johnsbury, VT
Barre, VT
St. Albans, VT
Bennington, VT
Newport, VT
White River Jct, VT
Brattleboro, VT.

Proposers shall also indicate which branches are franchise locations. Proposers shall list these locations on Attachment H. 35 points will be given to the Proposer with the most city and neighborhood locations, a percentage of points will be given to Proposers with fewer locations.

8.3.8 It is desired that Proposer offer emergency roadside assistance. Is this offered, is it nationwide or selected locations. If not offered nationwide, the locations in which assistance is offered. What services are covered, is there an additional charge, are there different charges for different services? 65 Points

8.3.9 How many international locations does Proposer operate? What countries? What are the average rates? What insurance options are available and what are the costs? Proposer with the most international locations shall receive 20 points, A percentage of 20 points will be awarded for fewer locations. Proposers shall receive an additional 5 points if insurance is available. Is Liability, Loss Damage Waiver and Personal effects coverage available? Proposers shall receive an additional 5 points if there is no additional cost for international insurance.

8.3.10 It is desired that Proposer have a greening initiative or carbon offset program in place. It is further desired that the Participants may choose to enroll in these programs at no additional cost. Up to 5 points are available for any greening initiatives or carbon offset programs, 5 additional points are available if there are no additional costs to participate.

It is desired that Proposers have a wide selection of alternative fuel (E-85 or natural gas) and hybrid vehicles available at their locations. Proposers shall describe what alternative fuel and hybrid vehicle options are available, the number of vehicles in their fleet, which locations these vehicles are available and any additional costs for renting these vehicles. Proposers with the highest number of alternative and hybrid vehicles in their fleet shall receive 35 points; Proposers with fewer alternative and hybrid vehicles will receive a percentage of the 35 points. Proposers with the most locations that alternative fuel and hybrid vehicles are available will receive 35 points; Proposers with fewer locations will receive a percentage of the 35 points. Proposers will receive an additional 20 points if there is no increased cost to rent alternative fuel or hybrid vehicles. To receive the 20 points, the rental cost for alternative fuel and hybrid vehicles must exactly match the price for renting the same class of vehicle that uses gasoline.

8.3.11 It is desired for Proposer to have a contract implementation plan to initiate the new contract. Proposers shall describe their plan to integrate with existing travel programs. This includes any training programs, webinars, sales literature, State and Participant visitations or public forums. Up to 20 points are available for this section.

8.3.12 It is desired that Proposer have an expedited process or preferred customer lane at the rental counter. Proposers shall describe what programs are in place and if there is any additional cost for these programs. Up to 40 points are available for this section.

8.3.15 Proposers are to describe any other convenience options that will be available for use and any associated costs to use those convenience options. 3 points per additional convenience option are available with a maximum of 15 points.

8.3.16 In addition to nationwide direct billing, it is desired to have flexibility in billing cycle and payment and billing options. Proposers are to describe any billing options available and what flexibility of dates is available. Up to 15 points are available for this section.

8.3.17 In addition to required one way rentals as described in Section 8.2.18, it is desired that one way rentals are available nationwide with no mileage restrictions or charges for one way rentals within the 48 contiguous states. Proposer shall describe one way rental availability, any restrictions or additional costs. 29 points are available for this section.

8.3.18 It is desired that Proposer offer vehicles for an hourly rate. Proposers are to indicate if vehicles are available by the hour and the hourly rates on Attachment B. 15 points are available for this section.

8.3.19: Desirable Vehicle Classes: It is desired to have the following classes of vehicles available for rent under the Price Agreement. Proposers shall indicate which vehicles are available and enter the cost on Attachment B. Points for desirable vehicle classes are outlined in Attachment B.

Station Wagons - Ford Taurus or approved equal

Small Pick-Up – Ford Ranger, Chevrolet Canyon,
Dodge Dakota or approved equal.

Large Pickup - Dodge Ram BR 2500, Ford F250, GMC Sierra
2500 HD, Chevrolet Silverado 2500 HD
or approved equal.

Cargo Van - Chevrolet 2500 Express Cargo, Ford F250
Econoline, Dodge Ram Van 2500 or approved equal

Box Trucks

Small 10 -15 ft long, minimum 3,000 lb Payload
Medium 16 – 20 ft long, minimum 3,500 lb payload
Large 21 – 26 ft long, minimum 9,000 lb payload

8.4 COST PROPOSAL.

Proposers are to complete and submit Attachment B, Proposer Pricing Page. 1600 points are available for pricing. Proposers shall enter base rates. The base rates are exclusive of local and state sales and federal excise taxes, airport concession fees, city surcharges or city differential fees applicable in certain cities, and do not include refueling charges, legislative or mandated taxes, bond issues imposed by government bodies or any additional optional charges that Traveler may purchase. The base rate shall include the .05% WSCA Administration fee and the Participating State rebate or VCAF fee, as described in Attachment C. Where the state government entities are not exempt from sales taxes on sales within their state, the Contractor shall add the sales taxes on the billing invoice as a separate entry. Point allocations are shown in Attachment B.

Proposers are to enter the cost for each vehicle type and length of rental. All vehicle classes under Mandatory Vehicle Classes must be completed. The prices for the Mandatory Vehicle Classes will be totaled by rental time. The lowest total vehicle class will be awarded the highest points available for that vehicle class and rental time. Higher cost proposals will be awarded a percentage of the points.

For vehicles in the Desirable Vehicle class, Proposers may choose to enter prices for vehicle classes as shown in the Desirable Vehicle Class section. If no vehicle class in the Desirables is proposed, then Proposers will earn zero points for that vehicle class. Prices will be totaled and averaged by the number of vehicles in each class and rental time. The lowest average price per each class and rental time will receive the highest amount of points available, high cost proposals will receive a percentage of the points.

8.5 CURRENT SERVICE DIRECTORY: If available, Proposers are to submit a copy of their current customer service directory or guide with their Proposal.

**ATTACHMENT A
PROPOSAL COVER PAGE
CERTIFICATION**

I, the official named below, certify that I am duly authorized to legally bind the Proposer/Firm to the clause(s) listed below.

Contractor/Proposer Firm Name (Printed)

By (Authorized Signature of Person with Authority to Obligate the Proposer Contractually)

Printed Name *Title of Person Signing*

Date Signed *Telephone Number*

Identify Name of Person Authorized to Negotiate the Contract on Behalf of Firm *Identify Title of Person Authorized to Negotiate the Contract on Behalf of Firm* *Telephone Number*

Fax Number

Identify Name of Person to be Contacted for Clarification of Proposal *Identify Title of Person Authorized to be Contacted for Clarification of Proposal* *Telephone Number*

Fax Number

**CONTRACTOR CERTIFICATION CLAUSES IN RESPONSE TO RFP
Oregon Certifications:**

1. Proposer understands and accepts the requirements of this RFP. By Proposal submission, the Successful Proposer(s) agree(s) to be bound by the Contract terms and conditions at Attachment C and as modified by Addendum, except for those terms and conditions that DAS SPO has reserved for negotiation in the RFP.
2. Proposer acknowledges receipt of any and all Addendum to this RFP.
3. Proposer and Proposer's employees and agents are not included on the list titled "Specially Designated Nationals and Blocked Persons" maintained by the Office of Foreign Assets Control of the United States Department of the Treasury and currently found at <http://www.treas.gov/offices/enforcement/ofac/sdn/t11sdn.pdf>.
4. Proposer acknowledges these certifications are in addition to any certifications required in the Contract and Scope of Services at Attachment C at the time of Price Agreement execution.

WSCA Certifications:

1. **NON-COLLUSION:** By signing this Proposal the Proposer certifies that the Proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the RFP, designed to limit independent bidding or competition.
2. **CONFLICT OF INTEREST:** Proposer certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this Price Agreement.

**Attachment B
Pricing Sheet**

Insert RFP Pricing page, Excel Spreadsheet

ATTACHMENT C

MASTER PRICE AGREEMENT **VEHICLE RENTAL SERVICES**

This agreement (the "Price Agreement") is entered into as of the Effective Date by the State of Oregon, acting by and through the State Procurement Office of the Department of Administrative Services (the "State") and **INSERT NAME OF CONTRACTOR** ("Contractor"). The State and the Contractor are collectively referred to as the "Parties".

The State issued RFP # 102-1524-09 seeking offers from qualified and responsible vendors to provide nationwide rental of passenger cars, light duty pick-up trucks, sport utility vehicles and 7-passenger mini-vans, 12-passenger and cargo vans, and other vehicles, and related services described in this Price Agreement to Participants.

Contractor submitted an offer in response to the RFP offering to provide the Services described in this Price Agreement in strict accordance with the terms and conditions set forth in this Price Agreement. The State has awarded this Price Agreement to Contractor as _____ *primary/secondary* Contractor.

The State has awarded this Price Agreement to Contractor for the purchase of nationwide vehicle rental services by State, State Agencies and ORCPP members, the Western States Contracting Alliance (WSCA), and each Participating State (Participants). This Price Agreement is the product of a cooperative procurement conducted by the State of Oregon on behalf of WSCA. For purposes of the cooperative procurement, this Price Agreement is the Master Price Agreement. Oregon is the Lead State for this Master Price Agreement. Each Participating State may negotiate its own unique terms and conditions separately in a Participating Addendum. The Price Agreement for a Participating State will be this Master Price Agreement and the negotiated Participating Addendum

NOW, THEREFORE, In consideration of the foregoing recitals and subject to the covenants, terms and conditions set forth below, the Parties agree as follows:

1.0 DEFINITIONS

Throughout this Price Agreement, a number of acronyms and terms are utilized that are specific to this Price Agreement. Terms and acronyms are defined in this Section 1 and elsewhere in the Price Agreement.

"Contract" means the entire agreement between the Contractor and a Participant comprised of the Price Agreement and its Exhibits, any applicable Participating Addendum, other addenda and amendments, and the transaction details in a signed Standard Rental Agreement Form or ordering document.

"Contract Contact Person" means the individual appointed by DAS SPO to administer this agreement on behalf of the State, the participating WSCA members and other Participants. For purposes of the Master Price Agreement, the Contract Contact Person is the WSCA Contract Administrator.

"DAS SPO" means the Oregon Department of Administrative Services, State Procurement Office.

“Goods” means all rental vehicles and equipment supplied under the Price Agreement as part of the Services.

“Effective Date” means the date that the Price Agreement is fully executed by the Parties and all required State of Oregon approvals have been obtained.

“Lead State” means the state that conducted this cooperative solicitation and that will centrally administer this resulting Master Price Agreement. Oregon is the Lead State for this Master Price Agreement. Lead State also means “Administrator” as defined in OAR **125-246-0400(3)(a)**.

“ORCPP” means the Oregon Cooperative Purchasing Program, whose members include but are not limited to: State Agencies not subject to DAS SPO purchasing authority, cities, counties, school districts, special districts, Qualified Rehabilitation Facilities (QRFs), residential programs under contract with the Oregon Department of Human Services, United States governmental agencies, and American Indian tribes or agencies.

“Participant” means a governmental body that is authorized to procure Services from Contractor based on this Price Agreement. Participant includes State, State Agencies, and ORCPP members, and Participating States and Political Subdivisions of Participating States properly authorized by a Participating State to enter into a contract for the purchase of Services described in this Price Agreement. Participant is used interchangeably with “procuring agency.”

“Participating Addendum” means a written statement of agreement signed by the Contractor and a Participating State (or a non-Oregon Political Subdivision with the consent of its State Chief Procurement Official) that clarifies the operation of the Master Price Agreement for the Participating State (e.g. ordering procedures specific to a Participating State) and may add other state-specific language or other requirements. A Participating Addendum evidences the Participant’s willingness to purchase and the Contractor’s willingness to provide Services and Goods under the terms and conditions of this Master Price Agreement with any and all exceptions noted and agreed upon.

“Participating Entity” means WSCA member state, a governmental entity within a WSCA member state or other authorized state or governmental entity that chooses to purchase products and services under the terms of this Master Price Agreement by executing a Participating Addendum.

“Participating State” means a WSCA member state located outside the State of Oregon that has indicated its intent to participate in this Master Price Agreement by executing a Participating Addendum or by using any other method provided by WSCA procedures, or any non-member state authorized by WSCA to purchase under this Master Price Agreement through execution of a Participating Addendum.

“Political Subdivision” means a county, city, school district, law enforcement authority, special district, or any other kind of municipal, quasi-municipal, or public corporation organized pursuant to law.

“Price Agreement” means this indefinite quantity agreement between the Contractor and the State under which the Contractor agrees to hold prices, terms and conditions firm for a specified period of time for the benefit of Participants, and to furnish products or services to a procuring entity.

“Services” means the rental of vehicles and other services to be performed by Contractor in connection with the rental of vehicles and the administration of the rental agreements as set forth in this Price Agreement.

“Standard Rental Form” means the fill-in-the-blank section of Contractor’s standard preprinted vehicle rental agreement form as described in Exhibit A to this Price Agreement and may be generated by Contractor for each vehicle rental in lieu of a Participant purchase order.

“State” means the State of Oregon.

“State Agency” means each agency, department, commission, bureau or other subdivision of the State government of Oregon whose costs are paid, in whole or in part from funds held in the State Treasury. “State Agency” does not include local governments or other political subdivisions of the State of Oregon.

“State Chief Procurement Official” means the primary individual designated and authorized by law or administrative rule to administer the authority of the state government for procurement of goods and services.

“Traveler” means the person authorized by Participant to operate vehicles rented under this Price Agreement.

“UCC” means the Uniform Commercial Code, ORS chapters 71 and 72 as amended from time to time.

“WSCA” means the Western States Contracting Alliance, a cooperative group contracting consortium for State government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, and Wyoming.

2.0 AGREEMENT TO PROVIDE SERVICES: During the term of the Price Agreement, Contractor agrees to provide the Services of the kind and quantity requested, at the time and place requested by a Participant at the prices in Exhibit E and on the terms and conditions set forth in this Price Agreement.

3.0 TERM OF THE PRICE AGREEMENT; ROLES OF PARTICIPANTS; EXTENSION TERM PRICE ADJUSTMENTS.

3.1 TERM OF THE PRICE AGREEMENT

3.1.1 The initial term of the Price Agreement is three (3) years beginning on the Effective Date and ending on the expiration date unless terminated sooner in accordance with the termination provisions of this Price Agreement. The Price Agreement may be extended for additional periods (“Extension Terms”) by agreement of the parties as set forth below. The term of the Price Agreement shall not exceed ten (10) years.

3.1.2 DAS SPO shall notify Contractor in writing if the State intends to extend the Price Agreement (“Renewal Notice”) at least thirty (30) days prior to the expiration of the then current term. If Contractor consents to the extension, it shall sign and return the Renewal Notice to DAS SPO within the time period specified therein. If the Contractor does not consent, the Price Agreement shall expire according to its terms, unless earlier terminated.

3.1.3 Notwithstanding the foregoing, the State reserves the right in its sole discretion to extend the Price Agreement for a maximum of one (1) calendar month beyond any term. DAS SPO shall notify Contractor in writing of the one-month extension prior to the expiration of the then current term. Consecutive one-month extensions under this Section are not allowed.

3.2 ROLE OF PARTICIPANTS.

3.2.1 This Price Agreement is the primary agreement relating to the WSCA cooperative procurement for nationwide vehicle rental services (“Master Price Agreement”). The State of Oregon is the signatory on this agreement because it issued the solicitation and awarded the Price Agreement, and is the Lead State for the Agreement. Although this is the Price Agreement covering purchases between Contractor and Participants, which includes non-Oregon purchasing entities, some of the terms in this Price Agreement are specific to purchases made by State of Oregon and Oregon Participants only. Those Oregon-specific terms are apparent by their context.

3.2.2 This Price Agreement may be used by Participants. WSCA price agreements, including this Master Price Agreement may be used by non-member states with the authorization from the WSCA directors and subject to approval of the individual State Chief Procurement Official and local statutory provisions. Use of specific WSCA cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official regardless of whether or not the entity’s purchasing authority is otherwise subject to the control or authority of the Participating State.

3.2.3 Participating States and other non-Oregon Participants will indicate their intent to participate in this Master Price Agreement by executing a Participating Addendum with the Contractor or by using any other method provided by WSCA procedures. The Participating Addendum clarifies the operation of the Master Price Agreement for the Participating State and its Political Subdivisions (such as ordering procedures specific to that Participant) and may provide for laws specific to a state and other additional or modified terms and conditions. An individual Participating Addendum has no effect whatsoever on any other Participating Addendum or the scope of this Price Agreement. Each Participating State will execute a Participating Addendum with the primary contractor. Participating States may choose all, some or none of the secondary contractors for secondary Price Agreements under a Participating Addendum. One signed and one electronic copy of each Participating Addendum must be filed with the WSCA Contract Administrator within five (5) days after execution. Exhibit H to this Price Agreement is a sample Participating Addendum.

3.2.4 The Participating Addendum must clearly apply only to the purchases of the procuring agencies within the jurisdiction of the Participating Entity signing the Participating Addendum. The terms and conditions contained in any Participating Addendum take precedence over this Price Agreement as they relate to those purchases. No terms or conditions of any Participating Addendum will take precedence over the terms and conditions of any other Participating Addendum or over this Price Agreement except as they relate to those purchases.

3.2.5 Participating State obligations under this Agreement are limited to those Participating States who have signed (and not revoked) a Participating Addendum. Contractor acknowledges and agrees that the State shall bear no liability on contracts entered into for purchases by non-State Participants, which liability the State expressly disclaims. With regard to non-State Participants, Contractor agrees to look solely to the respective contracting Participant for any right and remedies Contractor may have at law or in equity arising out of the sale and purchase of Contractor's Services and related Goods and the resulting contractual relationship, if any, with each such contracting party. To the extent permitted by Participant state law, non-State Participants agree to be responsible for their own acts, errors or omissions pertaining to the indemnification provisions in the Price Agreement.

3.3 EXTENSION TERM PRICE ADJUSTMENTS This Price Agreement is enforceable and Exhibit E prices are firm for the initial term of the Price Agreement. At the time of Price Agreement renewal, the Contractor(s) may seek a rental rate increase for an Extension Term by submitting a written request to DAS, including all appropriate documentation to substantiate the proposed rate increase, within the period specified in the Renewal Notice. The requested increase must not exceed the Portland/Salem Urban Consumer Price index for the current year. If approved, the rate increase shall be firm for the duration of the Extension Term. Provided, however, no more than one rate increase shall be allowed during any twelve-month period regardless of the number of Extension Terms entered into during that time.

4.0 PRICING; BILLING OPTIONS, INVOICING AND PAYMENT:

The prices for the Services are listed in Exhibit E. Billing options, and invoicing and payment terms and conditions are set forth in Exhibit B. The Exhibit E prices are exclusive of local and state sales and federal excise taxes, airport concession fees, city surcharges or city differential fees applicable in certain cities, and do not include refueling charges, legislative or mandated taxes, bond issues imposed by government bodies or any additional optional charges that Traveler may purchase. Where the Participant is not exempt from taxes on sales within Participant's state, the Contractor shall add the sales taxes on the billing invoice as a separate entry. Contractor agrees to look only to the purchasing Participant for payment of account charges.

5.0 CONTRACTORS REPRESENTATIONS AND WARRANTIES:

5.1: The warranties set forth in this Section and in the UCC, which is incorporated into the Price Agreement and Contracts by reference, are in addition to, and not in lieu of, any other warranties provided in the Price Agreement and any Contract. All warranties provided are cumulative, and shall be interpreted expansively so as to afford the Participants and the State with the broadest warranty protection available.

5.2: The Contractor represents and warrants as follows:

5.2.1 Contractor has the power and authority to enter into and perform the Price Agreement and all Contracts. The Price Agreement and each Contract, when executed and delivered, shall be valid and binding obligations of the Contractor enforceable in accordance with their terms.

5.2.2 Contractor shall provide Services that meet or exceed the specifications set forth in Exhibit A.

5.2.3 Contractor shall perform all Services shall be performed in a good and workmanlike manner, and in accordance with the highest applicable professional or industry standards.

6.0 TERMINATION OF THE PRICE AGREEMENT: The Parties may terminate the Price Agreement as follows:

6.1 The Price Agreement may be terminated at anytime by mutual written agreement of the Parties.

6.2 The Price Agreement may be terminated by the State at its sole discretion, for its convenience, upon thirty (30) days written notice to the Contractor.

6.3 The State may, at its sole discretion, terminate the Price Agreement upon thirty (30) days written notice to Contractor for the reasons set forth in ORS 279B.140.

6.4 The State may terminate the Price Agreement if Contractor is in default of the Price Agreement or any Contract.

6.5 The Contractor has no unilateral right to terminate the Price Agreement prior to the expiration or termination of the term of the Price Agreement.

7.0 DEFAULT:

7.1 Contractor shall be in default of this Price Agreement under the following circumstances:

7.1.1 Contractor institutes or has instituted against it, insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or

7.1.2 Contractor no longer holds a license or certificate that is required for Contractor to perform its obligations under a Contract and Contractor has not obtained such license or certificate within ten (10) business days after delivery of a notice by the State or such longer period as the State may specify in such notice; or

7.1.3 Contractor commits any material breach or default of any covenant, warranty, obligation or certification under this Price Agreement and such breach, default or failure is not cured within ten (10) business days after delivery of a notice of default by the State or such longer period as the State may specify in such notice.

7.2 The State is in default of this Price Agreement if the State commits any material breach or default of any covenant, warranty, obligation or certification under this Price Agreement and such breach, default or failure is not cured within thirty (30) business days after Contractor's delivery of a notice of default to the State or such longer period as the Contractor may specify in such notice.

8.0 REMEDIES

8.1 If Contractor is in default under Section 7, the State is entitled to the following remedies:

8.1.1 Recovery of any and all damages suffered as the result of Contractor's default, including but not limited to direct, indirect, incidental and consequential damages, damages as provided in ORS 72.7110 to 72.7170 and damages provided by any other applicable Oregon law.

8.1.2 Termination of this Contract under Section 6. 3.

8.1.3 Initiation of an action or proceeding for specific performance or declaratory, injunctive or equitable relief;

8.1.4 Exercise of its right of setoff, and withholding of monies otherwise due and owing.

8.2 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. If it is determined for any reason that Contractor was not in default under Section 7, the rights and obligations of the parties shall be the same as if this contact was terminated pursuant to Section 6.2.

9.0 REPORTS: Contractor shall provide the reports specified in Exhibit A, Section 4.

10.0 ACCESS TO RECORDS AND AUDIT RIGHTS

10.1 Contractor shall maintain, retain, and keep accessible all records relevant to the Price Agreement and Contracts (the "Records") for a minimum of six (6) years, or such longer period as may be required by applicable law following expiration or termination of the Price Agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to the Price Agreement, whichever date is later ("Record Retention Period"). Contractor shall keep financial Records in accordance with generally-accepted accounting principles. During the Record Retention Period established in this Section 10, the Contractor shall permit the State, its duly authorized representatives, and the federal government access to the Records at reasonable times and places for purposes of examination and copying.

10.2 During the term of the Price Agreement and the Record Retention Period, the State, at its own expense (except as provided herein) has the right to audit Contractor's Records and other pertinent data, to determine and verify the figures reported in any Volume Sales Reports furnished by Contractor. Such audits shall take place during regular business hours, at Contractor's premises, and upon reasonable notice, and shall be conducted by an authorized representative of the State. In the event that any such audit reveals an underpayment of VCAF or any other applicable fees, Contractor shall immediately pay (i) the amount of deficiency, together with interest thereon at the maximum legal rate in the State of Oregon, and (ii) the reasonable cost of the audit by the State.

11.0 SALES TO PARTICIPANTS

11.1 Contractor agrees to sell from this Price Agreement to State, State Agencies, and ORCPP members, and, under a Participating Addendum, to Participating States and political subdivisions of Participating States properly authorized by a Participating State to purchase under this Price Agreement. .

11.2 Contractor shall verify the authority of a Participant to make purchases under this Price Agreement. If Contractor is found to have entered into two (2) or more Contracts under this Price Agreement with an entity other than a Participant, Contractor may be deemed to be in material breach of the Price Agreement.

11.3 The identity of ORCPP Participants can be verified on the DAS SPO website at <http://procurement.oregon.gov> or at Procurement Centers located throughout Oregon. (Call (503) 378-4649 for information or to view list of centers identified on DAS SPO Web page.) The identity of other Participating States' cooperative purchasing members shall be listed in the Participating Addendum.

12.0 COMPLIANCE WITH APPLICABLE LAWS AND STANDARDS:

The State's agreement to maintain this Price Agreement in effect is conditioned upon Contractor's compliance with the obligations of contractors contemplated under ORS 279B.220, 279B.230 and 279B.235, which are incorporated by reference herein.

In addition, Contractor shall comply with all federal, state and local laws, rules, regulations, executive orders and ordinances applicable to the Price Agreement and any resulting Contract, all of which are incorporated herein by reference to the extent applicable. If the Contractor is found to be not in compliance with these requirements during the life of this Agreement, the Contractor agrees to take appropriate steps to correct these deficiencies.

Contractor shall, to the maximum extent economically feasible in the performance of this Price Agreement, use recycled paper as defined in ORS 279A.010(1)(gg), recycled PETE products as defined in ORS 279A.010(1)(hh), and other recycled plastic resin products and recycled products as "recycled product" is defined in ORS 279A.010(1)(ii).

13.0 CONFLICT BETWEEN PRICE AGREEMENT AND STATE AND FEDERAL LAW:

Federal law applicable to the Price Agreement or Contracts, or both, takes precedence over any conflicting State law. Notwithstanding the foregoing order of precedence, if the conflict is between minimum standards for quality, safety or similar attributes of the Services, the higher standards shall apply.

14.0 FOREIGN CONTRACTOR: If the amount of any single Contract exceeds ten thousand dollars (\$10,000), and if Contractor is not domiciled in or registered to do business in the State of Oregon, Contractor shall promptly provide to the Oregon Department of Revenue all information required by that Department relative to the Contract. Oregon Participants shall be entitled to withhold final payment under the Contract until Contractor has met this requirement.

15.0 TIME IS OF THE ESSENCE: Contractor agrees that time is of the essence for Contractor's performance obligations under the Price Agreement and any Contract.

16.0 FORCE MAJEURE: Neither the State nor Contractor is responsible for delay or default caused by fire, riot, acts of God, war, or any other cause which is beyond the Party's reasonable control. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under the Price Agreement. The State may terminate the Price Agreement upon written notice after reasonably determining that such delay or default will likely prevent successful performance of the Price Agreement.

17.0 INSURANCE: Contractor shall obtain prior to the Effective Date of the Price Agreement, and maintain during the term of the Price Agreement, the insurance required as provided in Exhibit C. With regard to workers' compensation insurance, all employers, including Contractor, that employ subject workers who work under the Price Agreement in the State of Oregon shall comply with ORS 656.017 and provide the required workers' compensation coverage, unless such employers are exempt under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors, if any, complies with these requirements, or any requirements applicable to any Participating State.

18.0 FUNDS AVAILABLE AND AUTHORIZED; PAYMENTS: Contractor understands and agrees that a Participant's payment of amounts under this Contract is contingent on the Participant receiving funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to allow Participant, in the exercise of its reasonable administrative discretion, to make payments under this Contract.

19.0 INDEPENDENT CONTRACTOR STATUS; RESPONSIBILITY FOR TAXES AND WITHHOLDING:

19.1 Contractor shall perform all Services as an independent Contractor. Although the State reserves the right (i) to determine (and modify) the delivery schedule for the Services to be delivered and the Services to be performed and (ii) to evaluate the quality of the completed performance, Participant cannot and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing any Services required by this Contract.

19.2 If Contractor is currently performing work for the State of Oregon or the federal government, Contractor by signature to this Contract declares and certifies that: Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS 244 and no State or federal rules or regulations would prohibit Contractor's performance under this Contract. Contractor is not an "officer", "employee", or "agent" of the State or any Authorized Agency or Independent Agency, as those terms are used in ORS 30.265.

19.3 Contractor shall be responsible for all federal and state taxes applicable to compensation or payments paid to Contractor under this Price Agreement and, unless Contractor is subject to backup withholding, Participant will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Price Agreement, except as a self-employed individual.

20.0 INDEMNIFICATION:

20.1 CONTRACTOR SHALL DEFEND, SAVE, HOLD HARMLESS, AND INDEMNIFY THE STATE, WSCA, PARTICIPANTS AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CLAIMS, SUITS, ACTIONS, PROCEEDINGS, LOSSES, DAMAGES, LIABILITIES, AWARDS AND COSTS OF EVERY KIND AND DESCRIPTION (INCLUDING REASONABLE ATTORNEY'S FEES AND EXPENSES AT TRIAL, ON APPEAL AND IN CONNECTION WITH ANY PETITION FOR REVIEW) (COLLECTIVELY, "CLAIM") WHICH MAY BE BROUGHT OR MADE AGAINST THE STATE, WSCA, PARTICIPANTS, OR THEIR AGENTS, OFFICIALS, EMPLOYEES AND ARISING OUT OF OR RELATED TO (I) ANY PERSONAL INJURY, DEATH OR PROPERTY DAMAGE CAUSED BY ANY ALLEGED ACT, OMISSION, ERROR, FAULT, MISTAKE OR NEGLIGENCE OF CONTRACTOR, ITS EMPLOYEES, AGENTS, RELATED TO THIS PRICE AGREEMENT, (II) ANY ACT OR OMISSION BY CONTRACTOR THAT CONSTITUTES A MATERIAL BREACH OF THIS CONTRACT, INCLUDING WITHOUT LIMITATION ANY BREACH OF WARRANTY, OR (III) THE INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT OF ANY THIRD PARTY BY DELIVERY OR USE OF THE SERVICES. PARTICIPANT SHALL PROMPTLY NOTIFY CONTRACTOR IN WRITING OF ANY CLAIM THAT THE STATE BECOMES AWARE. CONTRACTOR'S OBLIGATION UNDER THIS SECTION SHALL NOT EXTEND TO ANY CLAIM PRIMARILY CAUSED BY (I) THE NEGLIGENT OR WILLFUL MISCONDUCT OF THE STATE, WSCA, PARTICIPANTS OR THEIR AGENTS, OFFICIALS OR EMPLOYEES, OR (II) MODIFICATION BY STATE, WSCA, OR PARTICIPANT OF GOODS WITHOUT CONTRACTOR'S APPROVAL AND IN A MANNER INCONSISTENT WITH THE PURPOSE AND PROPER USAGE OF SUCH GOODS.

20.2 PROVIDED, HOWEVER, THE OREGON ATTORNEY GENERAL MUST GIVE WRITTEN AUTHORIZATION TO ANY LEGAL COUNSEL PURPORTING TO ACT IN THE NAME OF, OR REPRESENT THE INTERESTS OF, THE STATE AND/OR ITS OFFICERS, EMPLOYEES AND AGENTS PRIOR TO SUCH ACTION OR REPRESENTATION. FURTHER, THE STATE, ACTING BY AND THROUGH ITS DEPARTMENT OF JUSTICE, MAY ASSUME ITS OWN DEFENSE, INCLUDING THAT OF ITS OFFICERS, EMPLOYEES AND AGENTS, AT ANY TIME WHEN IN THE STATE'S SOLE DISCRETION IT DETERMINES THAT (I) PROPOSED COUNSEL IS PROHIBITED FROM THE PARTICULAR REPRESENTATION CONTEMPLATED; (II) COUNSEL IS NOT ADEQUATELY DEFENDING OR ABLE TO DEFEND THE INTERESTS OF THE STATE, ITS OFFICERS, EMPLOYEES AND/OR AGENTS; (III) IMPORTANT GOVERNMENTAL INTERESTS ARE AT STAKE; OR (IV) THE BEST INTERESTS OF THE STATE ARE SERVED THEREBY. CONTRACTOR'S OBLIGATION TO PAY FOR ALL COSTS AND EXPENSES SHALL INCLUDE THOSE INCURRED BY THE STATE IN ASSUMING ITS OWN DEFENSE AND THAT OF ITS OFFICERS, EMPLOYEES, OR AGENTS UNDER (I) AND (II) ABOVE.

20.3 ATTORNEYS' FEES: With the exception of defense costs and expenses pursuant to Section 20.2, neither party shall be entitled to recover attorney's fees, court and investigative costs, or any other fees or expenses associated with pursuing a remedy for damages arising out of or relating to the Price Agreement.

21.0 NOTICES: All notices required under the Price Agreement shall be in writing and addressed to the Party's authorized representative. DAS SPO's Contract Contact Person is named at the State signature block in this Price Agreement. The DAS SPO Contract Contact Person is the WSCA Contract Administrator for purposes of the Master Agreement. For non-Oregon Participants, Participant shall identify its authorized representative in the Participating Addendum. Contractor shall identify its authorized representative to the State prior to the Effective Date. Mailed notices shall be deemed received five (5) days after post marked, when deposited, properly addressed and prepaid, into the U.S. postal service. Faxed notices shall be deemed received upon electronic confirmation of successful transmission to the designated fax number. Personal delivery shall be effective upon delivery. Either Party may change its authorized representative or address by written notice to the other in accordance with the terms of this Section 21.

22.0 GOVERNING LAW, VENUE AND CONSENT TO JURISDICTION:

22.1 The Price Agreement shall be governed by and construed in accordance with the laws of the State of Oregon, without regard to principles of conflicts of laws. To the extent not modified by the terms of this Price Agreement, the UCC shall govern this transaction.

22.2 Any claim, action, suit or proceeding (collectively, "Claim") between the State and Contractor that arises from or relates to the Price Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then unless otherwise prohibited by law it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. CONTRACTOR HEREBY CONSENTS TO THE IN PERSONAM JURISDICTION OF SAID COURTS AND WAIVES ANY OBJECTION TO VENUE IN SUCH COURTS, AND WAIVES ANY CLAIM THAT SUCH FORUM IS AN INCONVENIENT FORUM. Nothing herein shall be construed as a waiver of the State's sovereign or governmental immunity, whether derived from the Eleventh Amendment to the United States Constitution or otherwise, or of any defenses to Claims or jurisdiction based thereon.

23.0 SURVIVAL: Any terms of this Price Agreement, which by their context or nature are intended to survive termination or expiration including but not limited to warranty, indemnification, access to records, governing law, venue, and consent to jurisdiction, termination and remedies provisions shall survive the termination or expiration of this Price Agreement.

24.0 SEVERABILITY: If any provision of the Price Agreement is declared by a court of competent jurisdiction to be illegal or otherwise invalid, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Price Agreement did not contain the particular provision held to be invalid.

25.0 ASSIGNMENT/SUBCONTRACT/SUCCESSORS:

25.1 Contractor shall not assign, sell or transfer any of its rights, or delegate or subcontract obligations under the Price Agreement, whether by merger, consolidation, dissolution, operation of law or any other manner without the prior written approval of the State. Any purported assignment of rights or delegation or subcontracting of obligations in violation of this provision is void.

25.2 Further, no such written approval shall relieve Contractor of any obligations under the Price Agreement, and any assignee, transferee delegate or subcontractor shall be considered the agent of Contractor.

25.3 The provisions of the Price Agreement shall be binding upon, and shall inure to the benefit the parties to the Price Agreement and their respective successors and permitted assigns.

26.0 MERGER CLAUSE; AMENDMENT; WAIVER: The Price Agreement constitutes the entire agreement between the Parties on the subject matter thereof. There are no understandings, agreements, or representations, oral or written, not specified therein regarding the Price Agreement. No waiver, consent, or amendment of terms of the Price Agreement shall bind either party unless in writing and signed by both parties, and all necessary approvals have been obtained. Waivers and consents shall be effective only in the specific instance and for the specific purpose given. The failure of the State to enforce any provision of the Price Agreement shall not constitute a waiver by the Participant of that or any other provision.

27.0 NO THIRD PARTY BENEFICIARIES: The State and Contractor are the only parties to this Price Agreement and are the only parties entitled to enforce the terms of this Price Agreement. Nothing in this Price Agreement gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name in this Price Agreement and expressly described as intended beneficiaries of the terms of this Price Agreement.

28. AMENDMENTS. The State has determined that during the term of the Price Agreement and Contracts, the parties may need to modify selected terms, conditions, price(s) and types of work under circumstances related to the following illustrative, although not exhaustive categories of anticipated amendments: (a) amendments required as result of necessary changes in the State's business process that may restructure DAS SPO; (b) amendments to extend the term of the Price Agreement in accordance with Section 3 and amendments to extend the term of a Contract; (c) amendments to change pricing, but only in accordance with Section 3; and (d) amendments to the Exhibit A Scope of Services, including changes to vehicle classes, types, models or requirements of the vehicles used under this Price Agreement. All amendments must be in writing and signed by all approving parties before becoming effective. Only DAS SPO has the final authority to execute changes, notices or amendments to the contract pursuant to OAR 125-246-0560.

CERTIFICATION OF COMPLIANCE WITH TAX LAWS

By my signature on this Price Agreement, I, hereby attest or affirm under penalty of perjury: That I am authorized to act on behalf of the Contractor in this matter, that I have authority and knowledge regarding the payment of taxes, and that Contractor is, to the best of my knowledge, not in violation of any Oregon Tax Laws." For purposes of this certification, "Oregon tax laws" are those tax laws listed in ORS 305.380(4), namely ORS Chapters 118, 314, 316, 317, 318, 320, 321 and 323 and Sections 10 to 20, Chapter 533, Oregon Laws 1981, as amended by Chapter 16, Oregon Laws 1982 (first special session); the elderly rental assistance program under ORS 310.630 to 310.706; and any local tax laws administered by the Oregon Department of Revenue under ORS 305.620.

CERTIFICATION OF COMPLIANCE WITH NON-DISCRIMINATION LAWS

By my signature on this Price Agreement, I hereby attest or affirm under penalty of perjury that I am authorized to act on behalf of Contractor in this matter, and to the best of my knowledge the Contractor has not discriminated against minority, women or emerging small business enterprises in obtaining any required subcontracts, and that the Contractor is not in violation of any Discrimination Laws."

SIGNATURE OF CONTRACTOR'S DULY AUTHORIZED REPRESENTATIVE

THIS PRICE AGREEMENT MUST BE SIGNED IN INK BY AN AUTHORIZED REPRESENTATIVE OF THE CONTRACTOR; ANY ALTERATIONS OR ERASURES TO THE OFFER MUST BE INITIALED IN INK BY THE UNDERSIGNED AUTHORIZED REPRESENTATIVE.

The undersigned acknowledges, attests and certifies individually and on behalf of the Contractor that:

(1) He/she is a duly authorized representative of the Contractor, has been authorized by Contractor to make all representations, attestations, and certifications contained in this Contract, if any, issued, and to execute this Price Agreement on behalf of Contractor. (2) Contractor is bound by and will comply with all requirements, specifications, and terms and conditions contained in this Price Agreement (including all listed attachments and Addenda, if any, issued (3) Contractor will furnish the designated Services in accordance with the Price Agreement specifications and requirements, and will comply in all respects with the terms of the resulting Contract upon award; and (4) CONTRACTOR WILL PROVIDE/FURNISH FEDERAL EMPLOYEE IDENTIFICATION NUMBER OR SOCIAL SECURITY NUMBER WITH OFFER.

Contractor's Name:

Authorized Signature: _____

Title: _____

FEIN ID# (required) _____

Contact Person (Type or Print): _____

Telephone Number: (_____) _____

Fax Number: (_____) _____

STATE SIGNATURE (to be completed by the State of Oregon)

The State of Oregon, acting by and through DAS SPO hereby accepts Contractor's offer and awards a Price Agreement to the above Contractor for the item(s) or service(s) or both contained in this Price Agreement.

Authorized Signature: _____

Date: _____

Term of Price Agreement: _____

Price Agreement No.: _____

DAS SPO Contract Contact Person
and WSCA Contract Administrator (Type or Print):

Telephone Number: (_____) _____

Fax Number: (_____) _____

EXHIBIT A

SCOPE OF SERVICES

1. CONTRACTOR REQUIREMENTS:

1.1 Contractor shall provide to Participants vehicle rental Services and related Goods from nationwide locations on the terms and conditions in this Price Agreement. A Participant may purchase any quantity of Services listed in Exhibit E at the prices in that Exhibit. Prices in Exhibit E are exclusive of charges listed in Section 1.16.1 below.

1.2 Contractor shall rent to any Traveler who possesses a valid drivers license, is at least 18 years of age or older and has a form of payment allowed under this Price Agreement. No additional prequalification is required either via oral or written inquiry and no minimum age surcharge will be on Price Agreement rates. The Contractor shall also allow under the same terms and conditions of this Price Agreement more than one Traveler to drive a rental vehicle including another Participant employee traveling with the Traveler.

1.3 Rental receipts must clearly detail all surcharges, local taxes, concession fees, fuel charges and other charges that are not included in the Exhibit E rate.

1.4 RENTAL CONDITIONS: This is a rental only Price Agreement and nothing herein contained shall be construed as transferring to Participant any ownership right, title, or interest in or to any vehicle rented hereunder. Participant is not granted hereby and shall not have any right or option hereunder to purchase any rental vehicle either during the term or on expiration of a rental contract. **THIS IS NOT A FINANCING AGREEMENT OR LEASE.**

1.5 MAINTENANCE AND OPERATING EXPENSES: The only operating expense Participant and Traveler will be responsible for is gasoline. All other maintenance and operating expenses (including insurance) are the responsibility of the Contractor. Contractor shall only supply vehicles that have been maintained in accordance with manufacturer's requirements, industry standards, and all applicable laws.

1.6 VEHICLE DOWNTIME: If a vehicle becomes substantially impaired or unsafe to operate, in Traveler's judgment, while in possession of Traveler, Contractor shall immediately replace the vehicle upon notification by Traveler, at no extra charge. Contractor shall deliver the replacement vehicle to a location determined by Traveler. Contractor shall be responsible for all repairs and towing of vehicle.

1.7 ASSIGNMENT: Participant and Traveler will not assign a Contract or permit anyone other than a properly authorized and licensed Traveler to operate any rental vehicle.

1.8 ACCIDENTS: Participant shall require Traveler to promptly notify the Contractor of all accidents involving any rental vehicle Traveler has in its possession, including the time, place and nature of the accident or damage, the names and addresses of parties involved, persons injured, witnesses, owners of property damaged, the place at which Contractor may examine the vehicle and

such other information as may be known by Traveler, and promptly advise Contractor of all correspondence, papers, notices and documents delivered to Traveler in connection with any claim or demand involving or relating to any vehicle or its operation. Participant and Traveler shall reasonably cooperate with Contractor in the investigation of all such claims and demands and in the recovery of damages from liable third persons.

1.9 LIABILITY FOR RENTAL VEHICLE: Contractor shall hold State, Participant and Traveler harmless from any physical damage, loss, vandalism, fire or theft of the rental vehicle provided rental vehicle was not used by the Participant or Traveler in any manner listed in Section 3.1. The Contractor shall not charge the State, Participant or Traveler any collision/loss damage waiver fee. On behalf of itself and its franchisees, Contractor specifically waives any right to submit any claim against the State, Participant or Traveler for any physical damage, loss, vandalism, fire or theft, or any other costs such as downtime, loss of revenue, administrative expenses and other expenses, of a rental vehicle provided under this Contract, provided rental vehicle was not used by the Participant or Traveler in any manner listed in Section 3.1. Notwithstanding above, Travelers shall not smoke in Contractors vehicles, and Contractor may reasonably charge Participant for any smoking damages caused by Traveler or Traveler's passengers in the vehicle while in Traveler's possession.

1.9.1 LIABILITY INSURANCE FOR RENTAL VEHICLE: Contractor shall provide supplemental liability insurance with each vehicle rental transaction at no additional cost to Participant. This supplemental liability insurance shall extend third party liability protection to Participant and Traveler in a combined single limit amount per occurrence of not less than \$1,000,000 per accident for bodily injury, death, or property damage to others arising out of the use or operation of the rental vehicle.

1.10 RESERVATIONS: Contractor shall accept reservations made at least 24 hours in advance on local rentals and seven (7) calendar days in advance on one way rentals. Reservations may be made by Participant or Traveler, contracted travel agencies or common carriers. Reservations shall guarantee vehicle availability including automatic, no-added -cost substitution. Reserved vehicle will be held for three (3) hours after the Traveler's estimated time of arrival prior to release. Whenever possible, the Participant or Traveler will advise the Contractor a minimum of 8 hours in advance of any change of travel plans necessitating rental vehicle cancellation or delayed pickup, however, in no situation shall the State, Participant or Traveler be liable for payment of "no shows". Travelers and Participants will cancel reservations in the same manner they were made when possible.

1.10.1 RESERVATION SYSTEMS/OPTIONS: Contractor shall maintain an internet reservation system where Travelers can access the rates under this Price Agreement. Contractor shall make available its rates under this Price Agreement on all major Global Distribution Systems (GDS). Contractor shall maintain a toll free 24 hour per day reservation phone number where Contractor's agents have access to the rates under this Price Agreement. Contractor shall also accept reservations at branch locations via walk-in or local telephone number. Contractor personnel at all Contractor locations must have access to the rates and terms and conditions contained in this Price Agreement.

1.11 SHORT NOTICE RESERVATIONS: Contractor shall not charge additional fees for short notice reservations.

1.12 VEHICLE DEMAND: Contractor shall meet 100% percent of Participants or Travelers reservations when 24 hours notice is given. If a reserved vehicle is not available at the time of pickup by the Traveler, Contractor shall substitute a vehicle of similar or greater quality at no additional cost. Contractor shall note on the invoice that a vehicle of same or greater quality was substituted at same or lower price.”

1.13 VEHICLE PICKUP/RETURN: Contractor will make all reasonable efforts to expedite the pickup and return of vehicles. At airport locations with counters, Contractor personnel will be available during terminal hours of operation to meet all incoming flights. For locations without airport counters, a courtesy phone or clearly identifiable sign indicating the telephone number to call for Contractors shuttle is required. Shuttle van service pickup is to be accomplished within 15 minutes of Traveler’s notification to Contractor. Vehicle pickup should routinely be accomplished within a total of 30 minutes from initial contact with the Contractor.

Contractor may request Traveler to sign Contractor’s Standard Rental Form solely to document the delivery of the vehicle, to provide the time and place of return of the vehicle, the applicable Contract rates and the computation and method of payment of charges. Area maps will be provided free of charge upon request. Vehicle will be furnished with an initial full tank of gas. Contractor will also provide the Traveler with accident, repair, and vehicle return instructions and, upon return of the rental vehicle to off airport locations, transport Traveler to the airport terminal within 30 minutes of turn in. Contractor shall provide to Traveler a completed copy of the Standard Rental Form showing total charges to be billed for the rental.

1.14 CONTRACT ADHERENCE: Contractor shall ensure that at all Contractor locations Price Agreement prices and terms and conditions are available and that there is 100 percent Price Agreement adherence.

1.15 AIRPORT LOCATIONS: Contractor shall have branch locations at the 2007 top 50 commercial airline airports as shown at

http://www.faa.gov/news/updates/busiest_airports/index.cfm?airportType=Air_Carrier&year=2007

The branch location may be an on-site, airport consolidated facility, or off site location within close proximity to the airport. For branch locations located off airport grounds, Contractor must have a shuttle bus that runs a minimum incremental of 15 minutes to and from airport and branch location. Branch locations serving major airports must remain open at least one hour after the last flight of each day has arrived at that airport. Shuttle busses must run when the branches are open.

1.16 RATE COMPOSITION

1.16.1 ROUND TRIP RENTALS

Contractor shall charge only the Exhibit E rates for rental of vehicle at each branch location. Rate includes all charges for reservations, shuttle service, collision/loss damage waiver insurance, and unlimited mileage.

Rates under this Price Agreement are not subject to blackout dates and do not require a minimum rental period. Applicable weekend/weekly discounts will be calculated and applied.

Rates in Exhibit E are base rates. They are exclusive of local and state sales and federal excise taxes, airport concession fees, city surcharges or city differential fees applicable in certain cities, Rates in Exhibit E do not include refueling charges, legislative or mandated taxes, bond issues imposed by government bodies or any additional optional charges that Traveler may purchase. Contractor shall itemize those charges as separate line items on the rental agreement and add the charges to the base rate. Where the Participant is not exempt from sales taxes on sales within their state, the Contractor shall add the sales taxes on the billing invoice as a separate entry.

Contractor may charge hourly overtime at one third of daily rental rate up to a maximum of the daily rental rate

1.16.2 ONE WAY RENTALS: Contractor will charge the Exhibit E base rate and other allowable charges identified in Section 1.16.1 for a one-way vehicle rental as if a round trip rental. Contractor shall not charge any drop fee or mileage charge for one way rentals of 1,000 miles or less. For one way rentals greater than 1000 miles, Contractor may charge the lesser of Contractor's established retail drop fee for the one way route or a mileage charge. The mileage charge for the one way rental will be the product of actual miles driven during the rental period times.

1.17 INVESTIGATIVE ASSISTANCE: The Contractor shall assist any investigative unit of Participant concerning alleged wrongdoing or suspected fraud or abuse by any Travelers or those entities doing business with the Contractor. Reciprocal assistance from the Participant with regard to investigations shall be provided to the Contractor.

1.18 BRANCH LOCATIONS: The branch locations or in-terminal counters will be in a permanent structure, well-lighted, clean, properly maintained and clearly identified as the vehicle rental Contractor with whom the reservation was made.

1.19 ADDITIONAL REQUIREMENTS: Comprised from RFP Desirables. To be completed prior to award of contract.

2. VEHICLE REQUIREMENTS:

2.1 Contractor shall maintain a sufficient number of vehicles on hand to meet the needs of Participants with advance reservations.

2.2 REQUIRED VEHICLES/EQUIPMENT: Contractor shall only provide Participants with rental vehicles with fewer than 34,999 miles. Contractor certifies that odometer and original miles are the same and are accurate. Minimum standard equipment shall include automatic transmission, power steering, power brakes, air conditioning, AM/FM radio, air bags (if available from manufacturer) and all season radial tires. Contractor shall equip and maintain all rental vehicles to meet all federal, state and local vehicle safety standards, codes, and ordinances.

2.3 At time of vehicle pickup, Contractor shall deliver to Traveler a vehicle with a full tank of gas; proper fluid levels; coolant protected to -20 degrees; and in clean condition (inside and out). All vehicles should be in a like-new condition with no body damage or mechanical problems.

2.4 In inclement winter weather, upon request, vehicle must be equipped with snow tires or chains as appropriate and furnished with an ice scraper. Contractor may charge the additional fee identified in this Agreement for the rental of tire chains. On request from Traveler, Contractor shall provide instruction to the Traveler on the proper installation of tire chains. The Participants or Travelers are not responsible for chain damage to the vehicle.

2.5 On request from and at no additional cost to Traveler or Participant, Contractor shall provide with the rental vehicle: first aid kits, flares and fire extinguishers.

2.6 If available, hand controls for the disabled shall be available for use.

2.7 Intentionally blank..

2.8 If the vehicle size classification requested by the Participant at the time of reservation is not available at the time of vehicle pickup, the Traveler will be so advised and offered an upgrade at no additional cost. The Contractor shall not leave the Traveler without a means of transportation nor force the Traveler to use out-of-pocket expenses to secure their own transportation.

2.9 Intentionally blank..

2.10 VEHICLE MODELS: Contractor shall have available for rent under this Price Agreement the following classes of vehicles or equivalent models approved by the WSCA Contract Administrator. For purposes of the size classifications in this Section 2.10, "intermediate" or "standard" is defined as a mid-sized four-door sedan automobile capable of comfortably transporting four adult passengers and four pieces of luggage (luggage to fall within the size category of airline "carry on").

Mandatory Vehicle Classes

- Compact Sedans - Ford Focus, Chevrolet Cavalier,
Dodge Neon.
- Intermediate Sedans – Ford Taurus, Chevrolet Impala,
Pontiac Grand Prix, Oldsmobile Alero,
Dodge Stratus Mazda 626.
- Full Size Sedans - Mercury Grand Marquis, Ford Crown
Victoria, Buick Century, Dodge Intrepid.
- Sport Utility - Chevrolet S-10 Blazer, Jeep Grand Cherokee,
Dodge Durango, Ford Explorer.
- Mini-Van - Chevrolet Astro, Chevrolet Venture,
Dodge Caravan, Chrysler Voyager,
Ford Windstar, Pontiac Montana.
- 12 Passenger Vans – Chevrolet 2500 Express/GMC 2500, Ford E350

Desirable Vehicle Classes

- Station Wagons - Ford Taurus.

Small Pick-Up – Ford Ranger, Chevrolet Canyon,
Dodge Dakota..

Large Pickup - Dodge Ram BR 2500, Ford F250, GMC Sierra
2500 HD, Chevrolet Silverado 2500 HD.

Cargo Van - Chevrolet 2500 Express Cargo, Ford F250
Econoline, Dodge Ram Van 2500.

Box Trucks

Small 10 -15 ft long, minimum 3,000 lb Payload

Medium 16 – 20 ft long, minimum 3,500 lb payload

Large 21 – 26 ft long, minimum 9,000 lb payload

2.11 LICENSING REQUIREMENTS: Contractor shall secure, maintain and pay for any federal, state and local licenses required to provide the services referenced in this Price Agreement.

2.12 ALTERNATE VEHICLES/EQUIPMENT: Contractor shall not provide without the consent of the Participant alternate size classifications (larger or smaller) other than the Mandatory and Desirable classes identified in Section 2.10. At time of reservation, Participant may expressly request rental vehicles from alternate size classes. All alternate size vehicles must be equipped with minimum standard equipment identified in Section 2.2 above.

Alternate size classifications specifically identified by the State shall be subject to Vehicle Models as defined in Section 2.10 above. Alternate size classifications not identified by the State, but offered by the Contractor, will be considered as conditional use, regardless of location.

2.13 ALTERNATIVE FUEL VEHICLES: Where available and on not less than seven (7) days advance request, Contractor shall provide a class of vehicles known as Alternative Fuel (E85, natural gas or hydrogen) or “hybrid” vehicles. Hybrid vehicles must have a federal MPG rating of at least 50 MPG.

2.14 NON-SMOKING VEHICLES: All vehicles rented under this Price Agreement shall be non-smoking, whereas previous renters did not smoke tobacco products inside the vehicle.

3 PARTICIPANT RESPONSIBILITIES

3.1 PROPER USE OF VEHICLE:

Participant agrees the rental vehicle will not be used:

- A.** by a driver who is under the influence of alcohol or any prohibited drugs.
- B.** for any illegal purpose.
- C.** to push or tow another vehicle unless the vehicle is equipped for towing and is specified in the rental agreement..
- D.** to carry passengers or property for hire.

E. in a test, race or contest.

F. by an unlicensed driver.

G. by a person other than an authorized Traveler with the minimum driver requirements.

H. outside of the United States except where such use is specifically authorized by the Contract.

I. off paved, graded or maintained roads, or driveways, except when the Contractor has agreed to this in writing beforehand. SUV's, cargo vans and pick-up trucks shall be allowed, without Contractor's prior written agreement, to operate off paved, graded or maintained roads and driveways or roads open for use by high-clearance vehicles (Maintenance Level 2 definition for roads in National Forests)

J. by a driver who allows more passengers to occupy the vehicle than there are seatbelts or who does not require all passengers to comply with applicable seatbelt and child restraint laws.

K. by a driver who is under 18 years of age

L. by a driver or occupant who is smoking.

3.2 Participants shall not use passenger vans with a capacity of 10 or more passengers to transport children in the twelfth (12th) grade or younger for school related functions.

3.3 Participants shall not operate or use passenger vans with a capacity of 10 or more passengers in the District of Columbia, the States of Florida, Iowa, Maine, Massachusetts, New York, Rhode Island and the country of Canada.

3.4 FULL FUEL TANKS: Participant shall return a vehicle to the Contractor with a full tank of fuel, or partially filled if the vehicle is an AFV that uses compressed natural gas. If Participant returns the vehicle to Contractor with less than a full tank of fuel, Contractor may invoice Participant for the missing fuel at the average retail cost of fuel for the market at the return location.

4. ADMINISTRATIVE AND CONTRACT MANAGEMENT REPORTS; ADMINISTRATIVE FEES

4.1 ADMINISTRATIVE AND CONTRACT MANAGEMENT REPORTS Contractor shall provide administrative and contract management reports at the times and in the manner set forth in this Section 4. "Volume Sales Reports", "Noncompliance Reports" and "Accident Reports" are defined in subsections 4.2 through 4.4.

4.1.1 Lead State on behalf of WSCA: Contractor shall provide quarterly to the WSCA Contract Administrator at Lead State on behalf of WSCA Volume Sales Reports and Noncompliance Reports for all use of the Master Price Agreement nationwide.

4.1.2 Oregon Price Agreement: For vehicle rentals to State, State Agencies, and other Oregon Participants, Contractor shall provide to the DAS SPO Contract Contact Person quarterly Volume Sales Reports, monthly Noncompliance Reports and monthly Accident Reports. Contractor shall submit to State such additional custom reports State may reasonably request. For itself and as Lead State on behalf of WSCA, State reserves the right to request Contractor to modify reports or create ad-hoc reports as needed.

4.1.3 Other Participating States: For vehicle rentals to Participants in each Participating State other than Oregon, Contractor shall provide to the Contract Contact Person for a Participating State quarterly Volume Sales Reports, monthly Noncompliance Reports, and monthly Accident Reports, or as otherwise agreed by Contractor and Participating State in the applicable Participating Addendum. Contractor shall submit to Participating State such additional custom reports as Participating State may reasonably request. Participating State reserves the right to request Contractor to modify reports or create ad-hoc reports as needed.

4.2 VOLUME SALES REPORTS.

4.2.1 Reports to Lead State. Contractor shall provide to the WSCA Contract Administrator at Lead State quarterly reports of all Services sold under the Price Agreement and Participating Addenda nationwide (“Volume Sales Report”). Contractor shall subtotal the Volume Sales Report by Participating State and shall include for each Participating State:

- Participating State Name
- Locations of rentals
- Dollar volume of Services by locations subtotaled by month
- Total dollar volume of Services.

4.2.2 Reports to Oregon. For vehicle rentals to the State, State Agencies, and other Oregon Participants, Contractor shall provide to the DAS SPO Contract Contact Person quarterly reports of all Services sold under the Price Agreement. (“Total Dollar Amount for Quarter”) Contractor shall report for each transaction:

- Participant name
- Contractor transaction #
- Location of rental
- Vehicle size classification
- Date of rental
- Length of rental
- Miles driven on vehicle
- Unit price (rental rate) and extended total

Contractor shall subtotal the Volume Sales Report by Participant, and compute the Total Dollar Amount for Quarter.

4.2.3 Reports to Participating States. For vehicle rentals to the Participating State other than Oregon and to other Participants in that Participating State, Contractor shall provide to the Contract Administrator named in the Participating Addendum quarterly reports of all Services sold under the Price Agreement and Participating Addendum. (“Total Dollar Amount for Quarter”) Contractor shall report for each transaction:

- Participant name
- Contractor transaction #
- Location of rental

Vehicle size classification
Date of rental
Length of rental
Miles driven on vehicle
Unit price and extended total

Contractor shall subtotal the Volume Sales Report by Participant, and compute the Total Dollar Amount for Quarter.

4.2.4 Reportable Sales or Not. Contractor shall submit a Volume Sales Report each quarter to the WSCA Contract Administrator and the DAS SPO Contract Contact Person, whether or not there are reportable sales of Services. Participating State may specify in its Participating Addendum whether or not it requires a report in a quarter with no reportable sales. The report must contain complete and accurate details of the Services sold for the quarter just ended and (ii) such other information as Participating State may informally request. For purposes of the Volume Sales Report and administrative fees based on the Services sold, Contractor shall report the dollar volume of all Goods and Services for which Contractor charges Participant including optional purchases by Traveler but excluding fuel. Contractor is not obligated to report or pay administrative fees on taxes, assessments, fees, surcharges, or other charges itemized on the invoice which Contractor is required by a third party to collect.

4.3. NONCOMPLIANCE REPORTS: Contractor shall timely submit a report documenting when vehicles or Services were delivered that didn't meet the specifications of the Price Agreement ("Noncompliance Report"). This report shall include such events as vehicles not delivered with a full tank of gas, vehicles delivered un-clean, vehicles reserved weren't available at the time of pick up, and other noncompliant Services. Reports will include the date of rental, location of rental, the noncompliant event, and Participating State's name. Contractor shall collect and report data by Participating State.

4.4 ACCIDENT REPORTS. Contractor shall timely submit a report documenting accidents involving vehicles rented to Participants. ("Accident Report") Contractor shall collect and report data by Participating State.

Contractor shall report for each accident involving a vehicle rented under this Price Agreement and Participating Addenda:

Traveler Name
Participant Name
Date of Rental
Vehicle description
Location of Rental
Date of accident
Location of accident
Any police incident number and copy of any police report
Any claims made against vehicle rented.
Any action Contractor requests of the Participant or Traveler

4.5 TERMS APPLICABLE TO ALL ADMINISTRATIVE AND CONTRACT MANAGEMENT REPORTS

4.5.1 Report Format. Contractor shall provide the report in Microsoft Excel spreadsheet or other format agreed in advance to by Contractor and the WSCA Contract Administrator.

4.5.2 Report Delivery. Contractor shall provide reports electronically and send hard copies via regular mail. For electronic reports, Contractor shall either email reports to the applicable Contract Administrator, or provide reports on a diskette, CD, or other digital media.

4.5.3 All reports shall identify the Master Price Agreement number.

4.5.4 Report Receipt and Acceptance. The receipt or acceptance of any of the reports furnished pursuant to this Price Agreement or any Participating Addendum, or any sums paid hereunder, shall not preclude the Lead State or a Participating State from challenging the validity thereof at any time.

4.5.5 Compliance Audits. During the term of this Price Agreement the WSCA Contract Administrator and DAS SPO will monitor the Contractor for compliance through the required monthly and quarterly reports. DAS SPO reserves the right to audit Contractor's Master Price Agreement and Contract files for purposes of determining compliance with the Master Price Agreement reporting requirements.

4.5.6. Reporting Dates. Contractor shall submit the monthly reports required by this Section 4 by the thirtieth (30th) day of the month following the reporting month. Contractor shall submit the quarterly reports required by this Section 4 by the thirtieth (30th) day of the month following the last month of the applicable reporting period. For the purposes of this Price Agreement, quarters end March 31, June 30, September 30, and December 31. LEAD STATE AND DAS SPO RESERVE THE RIGHT TO TERMINATE THE MASTER PRICE AGREEMENT IF CONTRACTOR DOES NOT SUBMIT ADMINISTRATIVE AND CONTRACT MANAGEMENT REPORTS AS SCHEDULED. A PARTICIPATING STATE MAY TERMINATE ITS ADDENDUM IF REPORTS ARE NOT RECEIVED AS SCHEDULED.

4.6 ADMINISTRATIVE FEES. On the sale of Services to Participants, Contractor shall pay administrative fees at the times and in the manner set forth in this Section 4.6. For purposes of this section 4.6, quarters end March 31, June 30, September 30, and December 31. Administrative payments will be calculated using Volume Sales Reports furnished by Contractor for the most recent quarter. Contractor shall adjust the price accordingly to build in the administrative fee. Contractor shall not reflect or identify any administrative calculation or fee on any billing to a Participant that uses this Price Agreement.

4.6.1 WSCA Administrative Fee. The Contractor shall pay quarterly a WSCA administrative fee of 0.5% (0.005) of ALL sales under this Price Agreement on the schedule and using the method in Exhibit F. The WSCA administration fee is not negotiable. In addition to the WSCA administrative fee, some WSCA and non-WSCA member states may require that an additional fee be paid directly to the Participating State on purchases made by procuring entities within that Participating State. The Oregon administration fee is established in Section 4.6.2 below. For all other such state requests, the fee level, payment method and schedule for such reports and payments shall be as established in Section 4.6.3 or as otherwise incorporated in a Participating Addendum that is made a part of the

Price Agreement. Contractor shall remit WSCA administration fee in immediately available funds to the person and address named in Exhibit F.

4.6.2 Oregon Administrative Fee.

4.6.2.1 After the end of each quarter during the term of this Price Agreement, Contractor shall pay to State of Oregon, Department of Administrative Services (DAS) State Procurement Office (SPO), a Vendor Collected Administrative Fee (VCAF), in an amount equal to One Percent (1%) of Contractor's total sales made to Oregon Participants (State, State Agencies, ORCPP, other Oregon Participants) using this Price Agreement during the preceding quarter. DAS SPO will invoice Contractor for the VCAF based on the Volume Sales Report generated by the Contractor. Contractor is responsible for timely reporting and payment, regardless of entity that actually reports or makes VCAF payment to DAS SPO. This fee is in addition to the WSCA Administrative Fee.

4.6.2.2 Payment of VCAF. Upon receipt of the invoice from DAS SPO, Contractor shall remit payment to DAS SPO for the amount indicated on the invoice. Contractor shall contact the DAS SPO Contract Contact Person if no invoice is received within thirty (30) days after Contractor sends its quarterly Volume Sales Report to DAS SPO. Failure to submit the Volume Sales Report does not release Contractor from the requirement to timely remit required VCAF.

4.6.2.3 Remittance Address. The VCAF fee shall be in the form of a check remitted to:

State of Oregon
Department of Administrative Services/PFSS
Attn: State Procurement Office
1225 Ferry Street SE, U140
Salem, Oregon 97301-4285

4.6.2.4 Interest. Any payments Contractor makes or causes to be made to DAS SPO after the due date as indicated on the invoice, shall accrue interest at a rate of 18% per annum or the maximum rate permitted by law, whichever is less, until such overdue amount shall have been paid in full. DAS SPO's right to interest on late payments shall not preclude DAS SPO from exercising any of its other rights or remedies pursuant to this Price Agreement or otherwise with regards to Contractor's failure to make timely remittances.

4.6.3 Participating State Administrative Rebate. Except as otherwise agreed by Participating State and Contractor, Section 4.6.2 of this Exhibit A is incorporated by reference into any Participating Addendum under this Price Agreement. In incorporating Section 4.6.2, "Price Agreement" is deemed to mean "Participating Addendum"; "VCAF" is deemed to mean "Administrative Rebate"; "Oregon Participants" is deemed to mean "Participating State Participants" and "DAS SPO" is deemed to mean "Participating State" in all instances unless the context requires otherwise. Contractor shall remit the Administrative Rebate in the form of a check to the name and address identified in the Participating Addendum.

5. OTHER TERMS AND CONDITIONS

5.1 OREGON STATE AGENCIES AUTHORIZED FOR LONG TERM RENTAL:

a) Except as provided in Section 5.1(b), Contractor may rent vehicles for a period exceeding 31 days under this Price Agreement only to the following State Agencies:

Department of Agriculture, Oregon Department of Fish & Wildlife, Oregon Department of Forestry, Department of Administrative Services, Department of Corrections, Oregon State Police, Oregon Department of Transportation, Oregon Department of Parks & Recreation.

b) Contractor may rent vehicles for a period exceeding 31 days under this Price Agreement to a State Agency not listed in Section 5.1(a) with approval for that State Agency in writing in advance from DAS, Statewide Fleet Administration, c/o the DAS SPO Contract Contact Person. DAS, Statewide Fleet Administration may issue the written approval via facsimile, email, or hard-copy; the approval may be for a single transaction or for all transactions during a named period of time.

5.2 PARTICIPANT CONTACTS: The Contractor shall develop and maintain a list of Participant contracts and designated billing office contacts. The Participant shall provide its designated Authorized Officer(s) and designated billing office contact(s). The Contractor shall add this information to the list upon receipt from the Participant.

5.3 TRAINING REQUIREMENTS: Contractor shall provide multi-Participant sales/training seminars for the purpose of acquainting Participants with the vehicle rental program including benefits, use of management information reports, optional program features, etc. These seminars shall be conducted at locations approved by the State at no cost to the States or Participants.

1225 Ferry Street SE, U140
Salem, Oregon 97301-4285

NOTE: The above remit to address will be updated to reflect the Participating State entering into an Addendum.

6. CONTRACT FORMATION.

6.1 A Contract under this Price Agreement is effective when Participant requests one or more vehicles, whether that request is made by telephone or by facsimile or through electronic communication (e-mail or on-line booking) and when the Contractor delivers the requested vehicle(s) to Participant and Participant accepts the vehicle(s). Each Contract consists of the terms and conditions shown in the Price Agreement (including Exhibits), any applicable Participating Addendum, and the transaction details in the Standard Rental Form. Each such Contract is separate between the parties, enforceable in accordance with the terms thereof and independent of all such other contracts.

6.2 USING STANDARD RENTAL FORM. In lieu of a State purchase order form, Contractor will use a Standard Rental Form to document transaction details for each vehicle rental. Operative provisions in the Standard Rental Form are limited to designation of Participant and its Traveler; Services and products purchased under the terms of the Price Agreement (including invoicing details such as license plate number, delivery date and time, odometer at time of delivery and time of return, return date and time, reservation number, and invoicing address). Participant will execute the Standard Rental Form solely to affirm the transaction details and evidence the making of the Contract for a Vehicle rental. No language in the Standard Rental Form shall vary, amend, modify or add terms or conditions to the Price Agreement or the Contract. Contractor may use the Standard Rental Form to assist in maintaining the inventory of its vehicles. Contractor and SPO acknowledge and agree that all pre-printed terms and conditions located in or incorporated by reference into the Standard Rental Form including, but not limited to, any section regarding choice of law, venue, warranty disclaimer or exclusion, indemnification or limitation of liability are not binding on the parties and have no force or effect and are null and void with regard to vehicles delivered pursuant to the terms of this Price Agreement. The terms of the Price Agreement take precedence over and supersede all other conflicting terms and conditions, express or implied.

6.3 ORDER OF PRECEDENCE. In the event of any conflict or inconsistencies among Contract documents, the following order of precedence shall apply:

- A. the terms and condition of the Price Agreement;
- B. exhibits to the Price Agreement;
- C. the transaction details contained in the Standard Rental Form.

The precedence of Participating Addenda that may be issued in relation to the Master Price Agreement is addressed in Section 3.2.4.

Note: Exhibit G contains terms and conditions published by WSCA. In the event of inconsistencies or contradictions between the WSCA terms and conditions and those of the Price Agreement or any individual Participating Addendum, the terms and conditions of the Price Agreement and the Participating Addendum control over those contained in Exhibit G, regardless of any statement to the contrary in Exhibit G.

EXHIBIT B

INVOICING AND PAYMENT OF ACCOUNT CHARGES

1. PAYMENTS. All payments under this Price Agreement are subject to the provisions in this Exhibit B. Participant's payment obligation begins the day of delivery and acceptance of the rental vehicle and ends on the last day of the rental period or at the end of the day the vehicle is returned to the Contractor, whichever is later.

2. METHODS OF PAYMENT As payment for Services provided to State, State Agencies, ORCPP members and Oregon Participants authorized by the DAS SPO Contract Contact Person, Contractor shall accept credit card payments and shall bill Participant directly for Services not paid by credit card. Participating States and other Participants will choose whether to establish direct billing at the time of making the Participating Addendum between the Participant and the Contractor.

2.1.1 STATE AUTHORIZED CORPORATE CARD PROGRAM Contractor shall accept the Participant sponsored travel charge card for payment of rental charges. Frequent Travelers identified as such by their agency director may be issued a Participant sponsored travel charge card for business travel expenses.

2.1.2 MAJOR CREDIT CARDS Contractor shall accept the five major credit cards, Visa, MasterCard, Discover, American Express and Diners' Club. Contractor shall not assess any additional fees or charges to Travelers or Participants when accepting these cards for payment. Contractor shall only post charges on the cards at the conclusion of the rental period. Any pre-charging of cards with estimated rental charges or changing the form of payment is strictly prohibited.

2.2 CENTRALIZED CONSOLIDATED MONTHLY BILLING

2.2.1 ACCOUNTS. Contractor shall establish a procedure by which Participant may open an account for the purpose of direct billing for Services purchased under this Price Agreement. Contractor shall keep any billing account opened under this Price Agreement separate from any other account maintained by Contractor for the Participant. Contractor agrees to look only to the Participant for payment of account charges.

2.2.2 INVOICES. For Participants with direct billing, Contractor shall provide invoices to each billing address indicated by the Participant during the account set up process. Contractor shall invoice Participant for Services at the rates specified in Exhibit E. Contractor shall invoice not more frequently than monthly. Contractor shall invoice Participant for Services within 5 days of month end. The invoice shall include all transactions and adjustments completed during the billing cycle. Invoices shall contain at a minimum the following transaction information:

- license plate #
- delivery date and time
- odometer at time of delivery
- return date and time
- odometer at time of return

- reservation number

Contractor shall provide electronic invoicing at the Participant's request. Electronic invoices will be considered received at the time the Participant retrieves their invoice or a Participant's computer invokes a preset transmittal request (auto/dial feature) in its electronic mailbox or 24-hours after the Contractor submits the invoice to the electronic mailbox, which ever is earlier.

2.2.3 CHANGES TO ACCOUNT. Contractor shall send a written request to the Participant's Authorized Officer regarding any proposed changes to the Participant's account. Participant shall reply in writing approving or rejecting the account modification.

2.2.4 PAYMENT OPTIONS. Participants with direct billing shall have the option of payment by check, warrant, credit card or Electronic Funds Transfer (EFT). Participant shall submit payments to the Contractor at the address shown on the invoice.

2.2.5 OVERDUE ACCOUNT CHARGES. Contractor shall not charge Participants any annual fees, transaction fees, processing fees, report fees or any other fees for the administration of the direct billing account. Payment is due by Participant no later than 45 days from date of invoice. Payment will not be considered late if a check or warrant is post marked within that time. At Contractor's option, it may assess overdue account charges, in accordance with the provisions of ORS 293.462(3), up to a maximum rate of two-thirds of one percent per month (8% per annum) in accordance with the provision of ORS 293.462(4).

2.2.5 EFT TRANSACTION PROCEDURES. Contractor and Participant shall establish procedures for EFT transactions at the time of account setup for each Participant. In order to take advantage of any prompt payment incentives, Participants shall be encouraged to receive invoices electronically and make payments via EFT. In the event the Contractor, during the Contract term, elects to designate a different financial institution for the receipt of any payment made using EFT procedures, notification of such change and required information specified above must be received by DAS SPO and each Participant's Contract Administrator at a minimum of thirty (30) days prior to the effective date of change. Contractor's failure to provide accurate information in a timely manner may delay payment of amounts otherwise properly due.

2.3. RESOLUTION OF DISPUTES. The Contractor shall provide resolutions of disputed amounts and shall make appropriate adjustments to Participants accounts. The Contractor shall provide the Participant Contract Administrator with a copy of all Contractor correspondence relating to disputed transactions.

EXHIBIT C

SCHEDULE OF INSURANCE

1. General Requirements

During the term of the Contract, Contractor shall maintain in full force and at its own expense each insurance coverage or policy noted below, from insurance companies that are authorized to transact insurance and issue coverage in the State of Oregon and are acceptable to State. Contractor shall maintain the same for each Participating State, as set forth in each respective Participating Addendum. The Contractor shall pay for all deductibles, self-insured retention and self-insurance included thereunder.

2. Commercial General Liability

Contractor shall obtain, at its expense, and keep in effect during the term of this Contract, Commercial General Liability Insurance covering bodily injury and property damage in a form and with coverage that is satisfactory to State. This insurance shall include personal injury liability, products and completed operations, and contractual liability coverage for the indemnity provided under this Contract, and is made on an occurrence basis. Combined single limit per occurrence shall not be less than \$1,000,000. Each annual aggregate limit shall not be less than \$1,000,000.

3. Automobile Liability Insurance: Automobile Liability

Contractor shall obtain, at its expense, and keep in effect during the term of this Contract, Automobile Liability Insurance covering all owned, non-owned, or hired vehicles. This coverage may be written in combination with the Commercial General Liability Insurance. Combined single limit per occurrence shall not be less than \$1,000,000.

4. Workers' Compensation

All employers, including Contractor, that employ subject workers who work under this contract in the State of Oregon shall comply with ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. Contractor shall ensure that each of its subcontractors complies with these requirements.

5. Additional Insured

The liability insurance coverage, except Workers' Compensation, required for performance of the Contract shall include the Participant, and its departments, divisions, commissions, branches, officers and employees as Additional Insured but only with respect to the Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

6. "Tail" Coverage

If any of the required liability insurance is on a "claims-made" basis, "tail" coverage will be required at the completion of this Contract for the duration of twenty-four (24) months, or the maximum time period reasonably available in the marketplace. Contractor shall furnish certification of "tail" coverage as described or continuous "claims-made" liability coverage for twenty-four (24) months following Contract completion. Continuous "claims-made" coverage will be acceptable in lieu of "tail" coverage provided its retroactive date is on or before the effective date of this

Contract. If continuous “claims-made” coverage is used, Contractor shall be required to keep the coverage in effect for a duration of not less than twenty-four (24) months from the end of the Contract. This will be a condition of the final acceptance of work or services.

7. Notice of Cancellation or Change

There shall be no cancellation, material change, potential exhaustion of aggregate limits or non-renewal of insurance coverage(s) without sixty (60) days' written notice from the Contractor or its insurer(s) to Participant. Any failure to comply with the reporting provisions of this clause shall constitute a material breach of Contract and shall be grounds for immediate termination of this Contract by the Participant.

8. Certificate(s) of Insurance

Prior to performing under the Contract, as evidence of the insurance coverage required by this Contract, the Contractor shall furnish Certificate(s) of Insurance for all required insurance to Participant prior to its commencement of work under this Contract. Contractor's failure to present the required documents shall result in immediate Contract termination. The Certificate(s) will specify all of the parties who are endorsed on the policy as Additional Insured (or Loss Payees).

SECTION D - RESERVED

Exhibit E
Pricing Sheet

To be inserted at Price Agreement award.

Exhibit F

WSCA XYZ CONTRACT 2007- 2- Master Price Agreement # Contract Quarterly Administrative Fee and Sales Report

Contractor is required to pay quarterly an administrative fee of 0.5% (0.005) of ALL sales under this Master Price Agreement on the following schedule:

<u>Calendar Quarter Ending</u>	<u>Payment Due</u>
March 31 (Jan, Feb and Mar)	April 30
June 30 (Apr, May and Jun)	July 31
September 30 (Jul, Aug and Sep)	October 31
December 31 (Oct, Nov and Dec)	January 31

Contractor will submit a copy of this form, completed and signed with each check.

Submit check payable to NASPO; include Master Price Agreement number # _____ to:
WSCA/NASPO
c/o AMR Management Services
Attn: Program Manager
201 East Main Street, Suite 1405
Lexington, KY 40507

All sales made during a calendar quarter should be reported and paid in that quarter. Failure to make payments and provide data is a violation of the terms of the contract you have signed and may result in default actions.

Section A (summary of sales by contractor)

Contract No: _____ Contract Title: _____

Contractor Name: _____ Contact person: _____

Contract Term: _____ Contractor Signature: _____

Reporting Period (please circle one):

Calendar Year (please circle one):

QTR1 QTR2

2007

2008

2009

2010

QTR3 QTR4

2011

2012

2013

2014

Total Sales This Quarter: \$
 x 0.5% (0.005)
= \$

Check here if sales are less than zero this quarter

Section B (state breakdown)

Please provide total sales and breakdown of amount paid by states.

State	Dollar Amount	State	Dollar Amount	State	Dollar Amount
Alabama	\$	Kentucky	\$	North Dakota	\$
Alaska		Louisiana		Ohio	
Arizona		Maine		Oklahoma	
Arkansas		Maryland		Oregon	
California		Massachusetts		Pennsylvania	
Colorado		Michigan		Rhode Island	
Connecticut		Minnesota		South Carolina	
Delaware		Mississippi		South Dakota	
District Columbia		Missouri		Tennessee	
Florida		Montana		Texas	
Georgia		Nebraska		Utah	
Hawaii		Nevada		Vermont	
Idaho		New Hampshire		Virginia	
Illinois		New Jersey		Washington	
Indiana		New Mexico		West Virginia	
Iowa		New York		Wisconsin	
Kansas		North Carolina		Wyoming	

Should equal total sales reported in Section A

Exhibit G

Standard Contract Terms and Conditions Western States Contracting Alliance

PARTICIPANTS: Western States Contracting Alliance (herein WSCA) is a cooperative group contracting consortium for state government departments, institutions, agencies and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the states of Alaska, Arizona, California, Colorado, Hawaii, Idaho, Minnesota, Montana, Nevada, New Mexico, Oregon, South Dakota, Utah, Washington, Wisconsin and Wyoming.

QUANTITY ESTIMATES: WSCA does not guarantee to purchase any amount under the contract to be awarded. Estimated quantities are for bidding purposes only and are not to be construed as a guarantee to purchase any amount.

SPECIFICATIONS: Any deviation from specifications must be clearly indicated by bidder, otherwise, it will be considered that the bid is in strict compliance. When BRAND NAMES or manufacturers' numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the bid states "No substitute". Bids will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate bids offering lower quality or inferior performance will not be considered.

ACCEPTANCE OR REJECTION OF BIDS: WSCA reserves the right to accept or reject any or all bids or parts of bids, and to waive informalities therein.

BID SAMPLES: Generally, when required, samples will be specifically requested in the bid invitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated in testing, samples will be returned at a bidder's request, transportation collect.

CASH DISCOUNT TERMS: Bidder may quote a cash discount based upon early payment; however, discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

TAXES: Bid prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

MODIFICATION OR WITHDRAWAL OF BIDS: Bids may be modified or withdrawn prior to the time set for the opening of bids. After the time set for the opening of bids no bid may be modified or withdrawn.

PATENTS, COPYRIGHTS, ETC.: The Contractor shall release, indemnify and hold the Buyer, its officers, agents and employees harmless from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, secret

process, patented or unpatented invention, article or appliance furnished or used in the performance of this contract.

AWARD: The award will be made to the lowest responsive and responsible bidder meeting specifications and all bid terms and conditions. Unless stated in the bid requirements or special terms and conditions, WSCA reserves the right to award items separately or by grouping items, or by total lot.

NON-COLLUSION: By signing the bid the bidder certifies that the bid submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the invitation to bid, designed to limit independent bidding or competition.

CANCELLATION: Unless otherwise stated in the special terms and conditions, any contract entered into as a result of this bid may be canceled by either party upon 60 days notice, in writing, prior to the effective date of the cancellation. Cancellation may be in whole or in part.

DEFAULT AND REMEDIES: Any of the following events shall constitute cause for WSCA to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract WSCA shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, WSCA may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future bid solicitations.

LAWS AND REGULATIONS: Any and all supplies, services and equipment bid and furnished shall comply fully with all applicable Federal and State laws and regulations.

CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions which follow; the special terms and conditions shall govern.

REPORTS: The contractor shall submit quarterly reports to the WSCA Contract Administrator showing the quantities and dollar volume of purchases by each agency.

HOLD HARMLESS: The contractor shall release, protect, indemnify and hold WSCA and the respective states and their officers, agencies, employees, harmless from and against any damage, cost or liability, including reasonable attorney's fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, his employees or subcontractors or volunteers.

ORDER NUMBERS: Contract order and purchase order numbers shall be clearly shown on all acknowledgements, shipping labels, packing slips, invoices, and on all correspondence.

GOVERNING LAW: This procurement and the resulting agreement shall be governed by and construed in accordance with the laws of the state sponsoring and administering the procurement.

DELIVERY: The process bid shall be the delivered price to any WSCA state agency or political subdivision. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Buyer except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

WARRANTY: Unless otherwise stated, all supplies and equipment shall be new and current model and shall carry full factory warranties. Contractor warrants all goods delivered to be free from defects in labor, material and manufacture and to be in compliance with bid specifications. All implied or expressed warranty provisions of the Uniform Commercial Code are incorporated in this contract.

AMENDMENTS: The terms of this contract shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the WSCA Contract Administrator.

ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this contract, in whole or in part, without the prior written approval of the WSCA Contract Administrator.

NONDISCRIMINATION: The bidder agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The bidder further agrees to furnish information and reports to requesting State(s), upon request, for the purpose of determining compliance with these statutes. Bidder agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This contract may be canceled if the bidder fails to comply with the provisions of these laws and regulations. The bidder must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

SEVERABILITY: If any provision of this contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the contract did not contain the particular provision held to be invalid.

INSPECTIONS: Goods furnished under this contract shall be subject to inspection and test by the Buyer at times and places determined by the Buyer. If the Buyer finds goods furnished to be incomplete or in compliance with bid specifications, the Buyer may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Buyer, the Buyer may cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Buyer's rights including the rights and remedies associated with revocation of acceptance under the Uniform Commercial Code.

PAYMENT: Payment for completion of a contract is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance.

FORCE MAJEURE: Neither party to this contract shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. WSCA may terminate this contract after determining such delay or default will reasonably prevent successful performance of the contract.

HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the user agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of bid opening. Bid prices must remain firm for the full term of the contract.

EXTENSION OF PRICES: In the case of error in the extension of prices in the bid, the unit prices will govern.

BID PREPARATION COSTS: WSCA is not liable for any costs incurred by the bidder in bid preparation.

CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any WSCA participants to any officer or employee of WSCA or participating states to secure favorable treatment with respect to being awarded this contract.

INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind WSCA or the respective states to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for WSCA or the states, except as expressly set forth herein.

POLITICAL SUBDIVISION PARTICIPATION: Participation under this contract by political subdivisions (i.e., colleges, school districts, counties, cities, etc.) of the WSCA

participating states shall be voluntarily determined by the political subdivision. The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

Revision date: June 1994

Exhibit H

PARTICIPATING ADDENDUM

NAME OF CONTRACT

MASTER PRICE AGREEMENT
Vendor Name Here

Contract Number A633xx

(Participating Entity Name)

1. **Scope**

(Briefly describe the jurisdiction of the governmental entity. If the jurisdiction includes all the governmental entities within an entire state, a statement to that effect will suffice)

2. **Changes:**

(Insert specific changes or a statement that no changes are required)

3. **Primary Contact:**

The primary participating entity contact for this Participating Addendum is as follows:

Name:

Participating Entity Name:

Address:

Telephone:

Fax:

E-mail:

The primary Contractor contact for this Participating Addendum is as follows:

Name:

Contractor:

Address:

Telephone:

Fax:

E-mail:

4. **Master Price Agreement Number:**

All order documents issued by procuring agencies within the jurisdiction of the Participating Addendum shall include the following price agreement number: A633xx (insert proper number as necessary).

The Master Price Agreement Number MUST be shown on all order documents issued against this Agreement.

This Addendum and the Price Agreement together with its exhibits, set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby

rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms.

Signed by governmental entity or state and contractor

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by Contractor below.

Signatures as required by State Statutes, Rules or Policies

Note to participating entity: See Price Agreement Exhibit B re election for direct billing

ATTACHMENT F

PROPOSERS REFERENCE FORM

Note: Proposers shall complete this form or provide information on Proposers letterhead and submit with Proposal. Failure to provide complete information shall be cause for Proposer rejection.

References of Comparable Service Requirements

A. Firm Name:

Address:

Name of Reference:

Position Title:

Telephone:

Service Dates:

Service Volume:

B. Firm Name:

Address:

Name of Reference:

Position Title:

Telephone:

Service Dates:

Service Volume:

C. Firm Name:

Address:

Name of Reference:

Position Title:

Telephone:

Service Dates:

Service Volume:

**ATTACHMENT G
TOP 50 AIRPORTS AND AIRPORT LOCATIONS GRID**

**

**ATTACHMENT H
CITY AND NEIGHBORHOOD LOCATION GRID**

Attachment I



RFP # 102-1524-09 REFERENCE QUESTIONNAIRE FOR: Nationwide Vehicle Rental Services

REFERENCE QUESTIONNAIRE

The State of Oregon, as a part of the RFP process, requires proposing vendors to submit business references. The purpose of these references is to document the experience relevant to the scope of work and provide assistance in the evaluation process. The proposing vendor or subcontractor is required to complete Part A and send the following reference form to each business reference listed in Attachment F for completion of Part B. The business reference, in turn, is requested to submit the Part B Reference Form directly to the State of Oregon, DAS State Procurement Office by the requested deadline for inclusion in the evaluation process. References not to include state agencies only; should include at least one reference not a state agency. If the references in Attachment F are all state agencies, send Part B to two from Attachment F and another to a business reference which is not a state agency. DAS SPO may contact the business reference for validation of the response.

Part A: _____
(Name of company requesting reference)

Part B:
This form is being submitted to your company for completion as a business reference for the company listed above. This form is to be returned to the DAS State Procurement Office, via e-mail at tim.hay@state.or.us or facsimile at (503) 378-4650 or overnight mail to 1225 Ferry St SE U140, Salem, OR 97301-4285, and must be received by DAS SPO no later than July 12, 2009. **Do not return this form to the company requesting the reference.**

For questions or concerns regarding this form, please contact Tim Hay at the DAS State Procurement Office by telephone at (503) 378-4650 or by e-mail at tim.hay@state.or.us. When contacting us, please be sure to include the Request for Proposal number listed at the top of this page.

Subject to State's obligations under the Oregon Public Records Laws, ORS 192.410-192.505, information provided in this Part B is confidential.

Company providing reference:
Contact name and title/position
Contact telephone number
Contact e-mail address
Company size of reference(employees and annual rentals)

15 points per reference

QUESTIONS:

1. In what capacity and how many years have you worked with this vendor?

COMMENTS:

2. How would you rate this vendor's knowledge and expertise of its industry?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

3. How would you rate the vendor's flexibility relative to changes in the project scope and timelines? Describe a challenge and how you resolved it?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

4. What is your level of satisfaction with the level of service and meeting your contract requirements?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS:

5. With which aspect(s) of this vendor's services are you most satisfied?

COMMENTS:

6. With which aspect(s) of this vendor's services are you least satisfied?

COMMENTS:

7. How would you rate the dynamics/interaction between the vendor and your staff?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

COMMENTS

8. Who were the vendor's principal representatives involved in your contract and how would you rate them individually? Would you comment on the skills, knowledge, behaviors or other factors on which you based the rating?

(3 = Excellent; 2 = Satisfactory; 1 = Unsatisfactory; 0 = Unacceptable)

Name:

Name:

Name:

COMMENTS:

9. Would you recommend this vendor's services to your organization again?

0 = Yes -10 = No

COMMENTS:

ATTACHMENT J - RESERVED

**ATTACHMENT K
INDIVIDUAL PARTICIPATING STATES TERMS AND CONDITIONS.**

This Attachment K contains for individual Participating States those significant state-specific provisions (required by the Participating State law, regulations, or procurement practices) which were received by Lead State at the time of publication of this RFP. THESE TERMS AND CONDITIONS ARE INCLUDED HERE FOR ILLUSTRATIVE PURPOSES. THEY WILL NOT BECOME PART OF THE MASTER PRICE AGREEMENT AND ARE NOT ELIGIBLE FOR PROTEST UNDER THIS RFP. The awarded Proposers and Participating States will negotiate these terms separately at the time of the awarding of the Participating Addendum. Omission of a Participating State or Participating State terms and conditions from this attachment does not prevent Contractor from making a Participating Addendum with a Participating State nor does it prevent Contractor and Participating State from adding additional terms and conditions to a Participating Addendum.

CALIFORNIA:

GTC 307

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. APPROVAL: This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Contractor may not commence performance until such approval has been obtained.
2. AMENDMENT: No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.
3. ASSIGNMENT: This Agreement is not assignable by the Contractor, either in whole or in part, without the consent of the State in the form of a formal written amendment.
4. AUDIT: Contractor agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Contractor agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Contractor agrees to allow the auditor(s)

access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Contractor agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

5. INDEMNIFICATION: Contractor agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by Contractor in the performance of this Agreement.

6. DISPUTES: Contractor shall continue with the responsibilities under this Agreement during any dispute.

7. TERMINATION FOR CAUSE: The State may terminate this Agreement and be relieved of any payments should the Contractor fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner deemed proper by the State. All costs to the State shall be deducted from any sum due the Contractor under this Agreement and the balance, if any, shall be paid to the Contractor upon demand.

8. INDEPENDENT CONTRACTOR: Contractor, and the agents and employees of Contractor, in the performance of this Agreement, shall act in an independent capacity and not as officers or employees or agents of the State.

9. RECYCLING CERTIFICATION: The Contractor shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE: During the performance of this Agreement, Contractor and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40), marital status, and denial of family care leave. Contractor and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Contractor and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section

12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Contractor and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Contractor shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES: The CONTRACTOR CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS: Time is of the essence in this Agreement.

13. COMPENSATION: The consideration to be paid Contractor, as provided herein, shall be in compensation for all of Contractor's expenses incurred in the performance hereof, including travel, per diem, and taxes, unless otherwise expressly so provided.

14. GOVERNING LAW: This contract is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS: The Contractor by signing this agreement hereby certifies that if these services or goods are obtained by means of a competitive bid, the Contractor shall comply with the requirements of the Government Codes Sections set out below.

a. The Government Code Chapter on Antitrust claims contains the following definitions:

1). "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.

2). "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.

b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.

c. If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but

were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.

d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT: “For any Agreement in excess of \$100,000, the contractor acknowledges in accordance with Public Contract Code 7110, that:

a). The contractor recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

b) The contractor, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.”

17. UNENFORCEABLE PROVISION: In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS: If this Contract includes services in excess of \$200,000, the Contractor shall give priority consideration in filling vacancies in positions funded by the Contract to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

CCC-307

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Contractor to the clause(s) listed below. This certification is made under the laws of the State of California.

<i>Contractor/Bidder Firm Name (Printed)</i>	<i>Federal ID Number</i>
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<i>By (Authorized Signature)</i>	
<i>Printed Name and Title of Person Signing</i>	
<i>Date Executed</i>	<i>Executed in the County of</i>

CONTRACTOR CERTIFICATION CLAUSES

1. **STATEMENT OF COMPLIANCE:** Contractor has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. **DRUG-FREE WORKPLACE REQUIREMENTS:** Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.

b. Establish a Drug-Free Awareness Program to inform employees about:

- 1) the dangers of drug abuse in the workplace;
- 2) the person's or organization's policy of maintaining a drug-free workplace;
- 3) any available counseling, rehabilitation and employee assistance programs; and,
- 4) penalties that may be imposed upon employees for drug abuse violations.

c. Every employee who works on the proposed Agreement will:

- 1) receive a copy of the company's drug-free workplace policy statement; and,
- 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Contractor may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the

Contractor has made false certification, or violated the certification by failing to carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION: Contractor certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Contractor within the immediately preceding two-year period because of Contractor's failure to comply with an order of a Federal court, which orders Contractor to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT: Contractor hereby certifies that contractor will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Contractor agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the contract equal to the lessor of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its contract with the State.

Failure to make a good faith effort may be cause for non-renewal of a state contract for legal services, and may be taken into account when determining the award of future contracts with the State for legal services.

5. EXPATRIATE CORPORATIONS: Contractor hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Contractors contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The contractor further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The contractor agrees to cooperate fully in providing reasonable access to the contractor's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the contractor's compliance with the requirements under paragraph (a).

7. DOMESTIC PARTNERS: For contracts over \$100,000 executed or amended after January 1, 2007, the contractor certifies that contractor is in compliance with Public Contract Code section 10295.3.

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST: Contractor needs to be aware of the following provisions regarding current or former state employees. If Contractor has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (Pub. Contract Code §10410):

- 1). No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2). No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (Pub. Contract Code §10411):

- 1). For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2). For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Contractor violates any provisions of above paragraphs, such action by Contractor shall render this Agreement void. (Pub. Contract Code §10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (Pub. Contract Code §10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION: Contractor needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Contractor affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT: Contractor assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. CONTRACTOR NAME CHANGE: An amendment is required to change the Contractor's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.

5. CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:

a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the contractor is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.

b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate contractor performing within the state not be subject to the franchise tax.

c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. RESOLUTION: A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. AIR OR WATER POLLUTION VIOLATION: Under the State laws, the Contractor shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. PAYEE DATA RECORD FORM STD. 204: This form must be completed by all contractors that are not another state agency or other governmental entity.

NEVADA

STATE OF NEVADA

TERMS AND CONDITIONS FOR PURCHASE OF GOODS:

1. **ASSENT:** The State and Vendor agree that the State's acceptance of Vendor's Bid through the issuance of a written Notification of Award shall create a binding Contract.
2. **INCORPORATED DOCUMENTS:** The Contract shall consist of this Invitation to Bid, any amendments to this invitation to bid if applicable the Vendor's Bid and all documentation contained therein, and the Notification of Award, together with any subsequently-issued Purchase Order executed by a person with full power and authority to issue same on behalf of the State. A Vendor's Bid shall not contradict or supersede any State specifications, terms or conditions without written evidence of mutual assent to such change appearing in this Contract.
3. **DEFINITIONS:** "State" means the State of Nevada and any state agency identified herein.
4. **CONTRACT TERM:** This Contract shall be effective for the period indicated in the Invitation to Bid, unless sooner terminated by either party as set forth in this Contract. The Contract term may be extended in accordance with NRS 333.280.
5. **NOTICE:** All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address set forth above.
6. **TERMINATION:**
 - a. Without Cause. This Contract may be terminated upon written notice by mutual consent of both parties or by the State upon 5 days written notice without cause.
 - b. State Termination for Non-appropriation. The continuation of this Contract beyond the current biennium is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the State Legislature and/or federal sources. The State may terminate this Contract, and Vendor waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the Contracting Agency's funding from State and/or federal sources is not appropriated or is withdrawn, limited, or impaired.
 - c. Cause Termination for Default or breach default or breach may be declared with or without termination. Either party upon written notice of default or breach to the other party may terminate this Contract as follows:
 - i. If Vendor fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or
 - ii. If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by Vendor to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or
 - iii. If Vendor becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

- iv. If the State materially breaches any material duty under this Contract and any such breach impairs Vendor's ability to perform; or
 - v. If it is found by the State that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by Vendor, or any agent or representative of Vendor, to any officer or employee of the State of Nevada with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or
 - vi. If it is found by the State that Vendor has failed to disclose any material conflict of interest relative to the performance of this Contract.
- d. Time to Correct. Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in paragraph (5), and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.
- e. Winding Up Affairs Upon Termination. In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:
- i. The parties shall account for and properly present to EA other all claims for fees and expenses and pay those that are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;
 - ii. Vendor shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the Contracting Agency.

7. **REPRESENTATIONS AND WARRANTIES:**

Vendor represents and warrants to the State:

- a. Vendor Authorization: Vendor is duly organized, validly existing, and in good standing under the appropriate laws with full power and authority to conduct the business that it presently conducts in the State of Nevada. Vendor has the legal power and right to enter into and perform the Contract. Consummation of the transactions contemplated by the Contract will not violate any provision of law, or any of Vendors governing documents (articles of incorporation, partnership Contract, etc). Execution of the Contract and all documents provided for in the Contract by Vendor and its delivery to the State have been duly authorized by the board of directors or managing agents of Vendor and no further action is necessary on Vendor's part to make the Contract valid and binding on Vendor in accordance with its terms. Vendor has obtained all licenses and permits to perform all of its requirements under the Contract, and is current on all tax obligations to the State of Nevada or any other governmental entity in Nevada.
- b. Bid Representations: All statements made by Vendor on any application, bid, proposal, offer, financial statement, or other document used by Vendor to induce the State to enter into the Contract are true, correct, complete, and omit no information which would render them misleading.
- c. Use of Broker: Vendor agrees to indemnify the State from any damage, liability, or expense that it may suffer as a result of any claim of a broker or other finder with whom it is determined that Vendor has dealt in connection with the transactions contemplated under the Contract.

- d. Express Warranties: For the period specified on the face of the Contract, Vendor warrants and represents EA of the following with respect to any goods provided under the Contract, except as otherwise provided on the face of the Contract or in an Contract signed by both parties:
- i. Fitness for Particular Purpose: The goods shall be fit and sufficient for the particular purpose set forth above.
 - ii. Fitness for Ordinary Use: The goods shall be fit for the purpose for which goods of a like nature are ordinarily intended, it being understood that the purpose for the goods covered by the Contract are ordinarily intended is general government administration and operations.
 - iii. Merchantable, Good Quality, No Defects: The goods shall be merchantable, of good quality, and free from defects, whether patent or latent, in material and workmanship.
 - iv. Conformity: The goods shall conform to the standards, specifications and descriptions set forth above. If Vendor has supplied a sample to the State, the goods delivered shall conform in all respects to the sample and if the sample should remain in the State's possession it shall be identified by the word "sample" and the signature of Vendor's sales representative.
 - v. Uniformity: The goods shall be without variation, and shall be of uniform kind, quality, and quantity within EA unit and among all units.
 - vi. Packaging and Labels: The goods shall be contained, packaged, and labeled so as to satisfy all legal and commercial requirements applicable to use by a government agency, including without limitation, OSHA material safety data sheets and shall conform to all statements made on the label.
 - vii. Full Warranty: The foregoing warranties are "full" warranties within the meaning of the Magnuson-Moss Warranty -- Federal Trade Commission Improvement Act, 15 U.S.C. § 2301 *et seq.*, and implementing regulations 16 C.F.R. pts. 700-703, if applicable to this transaction.
 - viii. Title: Vendor has exclusive title to the goods and shall pass title to the State free and clear of all liens, encumbrances, and security interests.
- e. Infringement; Indemnity: Vendor warrants the purchase or use of the goods shall not infringe upon any United States or foreign patent, and Vendor shall indemnify the State against all judgments, decrees, costs, and expenses resulting from any alleged infringement and shall defend, upon written request of the State, at its own expense, any action which may be brought against the State, its vendees, lessees, licensees, or assigns, under any claim of patent infringement in the purchase or use of Vendor's goods. If the State is enjoined from using such goods, Vendor shall repurchase such goods from the State at the original purchase price. The State shall notify Vendor promptly in writing of any such suit. If the State compromises or settles any such suit without the written consent of Vendor, Vendor shall be released from the obligations of this paragraph and from any liability to the State under any statute or other rule of law.
- f. Usage of Trade; Course of Dealings; Implied Warranties: Vendor shall also be bound by any other implied warranty that, at the time of execution of this Contract, prevails in the trade of government in the marketing area in and about the State of Nevada. Vendor shall also be bound by any other implied warranty arising through course of dealings between Vendor and the State from and after the execution of this Contract. Vendor shall also be bound by all warranties set forth in Nevada's Uniform Commercial Code (NRS Title 8) in effect on the date of issuance of the Notification of Award.

- g. Warranties Cumulative: It is understood that warranties created by this Contract, whether express or implied, as well as all warranties arising by operation of law that affect the rights of the parties under this Contract, are cumulative and should be construed in a manner consistent with one another.
 - h. Priority of Warranties: If it is held by a court of competent jurisdiction that there is an irreconcilable conflict between or among any of the warranties set forth in this Contract and any warranties implied by law, the parties agree that the specifications contained in this Contract shall be deemed technical and mere language of description.
 - i. Beneficiaries of Warranties: Benefit of any warranty made in this Contract shall be in favor of the State, any of its political subdivisions or agencies, and any employee or licensee thereof who uses the goods, and the benefit of any warranty shall apply to both personal injury and property damage.
8. **DELIVERY, INSPECTION, ACCEPTANCE, TITLE, RISK OF LOSS:** Vendor agrees to deliver the goods as indicated in the Contract, and upon acceptance by the State, title to the goods shall pass to the State. The State shall have the right to inspect the goods on arrival and, within a commercially reasonable time, State must give notice to Vendor of any claim or damages on account of condition, quality, or grade of the goods, and the State must specify the basis of the claim in detail. Acceptance of the goods described in this Contract is not a waiver of UCC revocation of acceptance rights or of any right of action that the State may have for breach of warranty or any other cause. Unless otherwise stated above, risk of loss from any casualty, regardless of the cause, shall be on Vendor until the goods have been accepted and title has passed to the State. If given any, the State agrees to follow reasonable instructions regarding return of the goods.
9. **NO ARRIVAL, NO SALE:** The Contract is subject to provisions of no arrival, no sale terms, but proof of shipment is to be given by Vendor, EA shipment to constitute a separate delivery. A variation of ten days in time of shipment or delivery from that specified herein does not constitute a ground for rejection. The State may treat any deterioration of the goods as entitling the State to the rights resulting from a casualty to the identified goods without regard to whether there has been sufficient deterioration so that the goods no longer conform to the Contract.
10. **PRICE; TAXES; PAYMENT:** The price quoted is for the specified delivery, and, unless otherwise specified in the Contract, is F.O.B. (freight included) to the delivery address specified above. Unless otherwise specified in the Contract, the price does not include applicable federal or State sales, use, excise, processing or any similar taxes, or duty charges, which shall be paid by the State, or in lieu thereof, the State shall provide Vendor with a tax exemption certificate acceptable to the applicable taxing authority. Unless otherwise specified in the Contract, payment shall be made by warrant drawn on the State of Nevada (in accordance with Nevada law) and mailed to Vendor at the address specified above (or to assignee if assignment is acknowledged by the State) within the time specified above.
11. **BREACH; REMEDIES:** Failure of either party to perform any obligation of the Contract shall be deemed a breach. In the event of a breach, the party asserting breach may, in addition to any remedies or rights afforded by Nevada law, cancel the Contract with respect to any executory obligations. All rights and remedies are cumulative with one another and with those provided by law, and exercise of oone remedy or right is not a waiver of the right to pursue any other right or remedy afforded. Penalties provided under Nevada law (e.g. NRS 333.365) shall be limited to those in effect on the effective date of the Contract. Either party, as a prevailing party to any arbitration or other action regarding the enforcement of the Contract, is entitled to reasonable attorneys fees and costs. It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for State-employed

attorneys. The State may set off consideration against any unpaid obligation of Vendor to any State agency.

12. **LIMITED LIABILITY:** The State will not waive and intends to assert available NRS chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages.
13. **WAIVER OF BREACH:** A failure to assert any right or remedy available to a party under this Contract, or a waiver of the rights or remedies available to a party by a course of dealing or otherwise shall not be deemed to be a waiver of any other right or remedy under this Contract, unless such waiver is contained in a writing signed by the waiving party.
14. **SEVERABILITY:** If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.
15. **ASSIGNMENT/DELEGATION:** To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by State, such offending portion of the assignment shall be void, and shall be a breach of this Contract. No duties of either party may be delegated without written consent by the other party, and any such consent does not in any way affect the liability of the delegating party, unless the writing so states.
16. **FORCE MAJEURE:** Vendor shall not be liable for any delay in delivery or failure to deliver any or all of the goods where the delay or failure is caused by labor troubles, strikes, lockouts, war, riots, insurrection, civil commotion, failure of crops or supplies from ordinary sources, earthquake, fire, flood, storm, accident, any act of God or any other cause beyond the control of Vendor. State shall not be liable for failure to take delivery of the goods where any of the above causes prevent carrier or State from accepting delivery. But, in any case, the party claiming the benefit of this provision shall use due diligence to remove any such causes and to resume performance under this Contract as soon as is feasible. Performance by the other party shall be suspended and excused during the period of any such delay or failure and performance shall resume as soon as possible after removal of the excuse.
17. **GOVERNING LAW; JURISDICTION:** The laws of Nevada, including, without limitation, Nevada's Uniform Commercial Code (NRS Title 8) in effect on the date of the Notification of Award, shall govern this Contract. The parties consent to the jurisdiction of the First Judicial District Court, Carson City, Nevada for enforcement of this Contract.
18. **ENTIRE AGREEMENT; CONFLICT WITH OTHER DOCUMENTS:** This Contract (including all incorporated attachments) is intended by the parties as the final expression of their agreement and is the complete and exclusive statement of the terms hereof. All prior agreements are superseded and excluded. Prices, quantities, dates, and places of deliveries and means of transportation may be fixed by attachments to this Contract. Except as previously stated, if any term in any incorporated attachment or in any Vendor's invoice contradicts or negates a term in this Contract, this Contract shall control. All amendments must be in writing signed by the parties.

VERMONT

State of Vermont Additional Terms and Conditions to the NASPO Terms and Conditions and Required Forms Cooperative Procurements

1. **Confidentiality:** The successful response will become part of the contract file and will become a matter of public record as will all other responses received. If the response includes material that is considered by the bidder to be proprietary and confidential under 1 VSA, Chapter 5, the bidder shall clearly designate the material as such, explaining why such material should be considered confidential. The bidder must identify each page or section of the response that it believes is proprietary and confidential with sufficient grounds to justify each exemption from release, including the prospective harm to the competitive position of the bidder if the identified material were to be released. Under no circumstances can the entire response or price information be marked confidential. Responses so marked may not be considered.
2. **Appropriations:** If this contract extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this contract, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of exiting appropriation authority.
3. **Independence, Liability:** The Contractor will act in an independent capacity and not as officers or employees of the State.

The Contractor shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Contractor or of any agent of the Contractor. The State shall notify the Contractor in the event of any such claim or suit, and the Contractor shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Contractor may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Contractor shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Contractor.

The Contractor shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Contractor.

4. **Insurance:** Before commencing work on this contract the contractor must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the contractor to maintain current certificates of insurance on file with the state through the term of the contract.

Workers Compensation: With respect to all operations performed, the contractor shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the contractor shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations
Products and Completed Operations
Personal Injury Liability
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence
\$1,000,000 General Aggregate
\$1,000,000 Products/Completed Operations Aggregate
\$ 50,000 Fire/ Legal/Liability

Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this contract.

Automotive Liability: The contractor shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the contract. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Contractor shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this contract.

No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the contractor for the contractor's operations. These are solely minimums that have been established to protect the interests of the State.

5. **Set Off:** The State may set off any sums which the Contractor owes the State against any sums due the Contractor under this contract; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
6. **No Gifts or Gratuities:** Contractor shall not give title, or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this contract.
7. **Certification for apparel, footwear, and textiles (sweatshop prohibition):** Before commencing work on this contract, the contractor must provide certification from each supplier that meets the requirements of 29 V.S.A. §922(a) as well as a list of the names and addresses of each supplier, as required by 29 V.S.A. §922(b). Contractor certifies that if, at any time during the contract period, there are changes to the information in the certification or to the list of suppliers the contractor will promptly inform the Commissioner of Buildings and General Services of such changes.

RFP:
DATE:

CERTIFICATE OF COMPLIANCE

This form must be completed in its entirety and submitted as part of the response for the proposal to be considered valid.

TAXES: Pursuant to 32 V.S.A. § 3113, bidder hereby certifies, under the pains and penalties of perjury, that the company/individual is in good standing with respect to, or in full compliance with a plan to pay, any and all taxes due to the State of Vermont as of the date this statement is made. A person is in good standing if no taxes are due, if the liability for any tax that may be due is on appeal, or if the person is in compliance with a payment plan approved by the Commissioner of Taxes.

INSURANCE: Bidder certifies that the company/individual is in compliance with, or is prepared to comply with, the insurance requirements as detailed in Section 4 of the State of Vermont Additional Terms and Conditions to the NASPO Terms and Conditions and Required Forms Cooperative Procurements. Certificates of insurance must be provided prior to issuance of a contract and/or purchase order. If the certificate(s) of insurance is/are not received by the Office of Purchasing & Contracting within five (5) days of notification of award, the State of Vermont reserves the right to select another vendor. Please reference the RFP and/or RFQ # when submitting the certificate of insurance.

CERTIFICATION FOR APPAREL, FOOTWEAR, AND TEXTILES (SWEATSHOP PROHIBITION): Bidder certifies that the company/individual is in compliance with the requirements as detailed in Section 7 of the State of Vermont Additional Terms and Conditions to the NASPO Terms and Conditions and Required Forms Cooperative Procurements. The contractor must provide certification from each supplier that meets the requirements of 29 V.S.A. §922(a) as well as a list of the names and addresses of each supplier, as required by 29 V.S.A. §922(b). Contractor certifies that if, at any time during the contract period, there are changes to the information in the certification or to the list of supplier the contractor will promptly inform the Commissioner of Buildings and General Services of such changes. The state reserves the right to ask for additional information and / or certifications any time during the contract period. Failure of the vendor to comply with any provision of this certification will be considered a default of the vendor's contract obligations.

CONTRACT TERMS: The undersigned hereby acknowledges and agrees to the State of Vermont Additional Terms and Conditions to the NASPO Terms and Conditions and Required Forms Cooperative Procurements.

TERMS OF SALE: The undersigned agrees to furnish the products or services listed at the prices quoted. The Terms of Sales are Net 30 days from receipt of service or invoice, whichever is later. Percentage discounts may be offered for prompt payments of invoices, however such discounts must be in effect for a period of 30 days or more in order to be considered in making awards.

FORM OF PAYMENT: Would you accept the Visa Purchasing Card as a form of payment? Yes
 No

Insurance Certificate(s): Attached _____

Will provide upon notification of award

Delivery Offered: _____ days after notice of award

Terms of Sale:

Quotation Valid for: _____ days

(If Discount)
Date: _____

Name of Company: _____

Contact Name:

Address: _____

Fax Number:

E-mail:

By: _____

Name:

Signature (Bid Not Valid Unless Signed)

(Type or Print)

All returned quotes and related documents must be identified with our request for quote number.

Standard Contract Terms and Conditions
National Association of State Procurement Officials (NASPO) Cooperative
Procurements

PARTICIPANTS: The National Association of State Procurement Officials (“NASPO”) is a national association of Chief Procurement Officers that has established a procurement cooperative for state government departments, institutions and political subdivisions (i.e., colleges, school districts, counties, cities, etc.) for the NASPO Member States and territories of the United States.

Obligations under contracts that result from this cooperative procurement are limited to those states and other eligible purchasing entities that execute a Participating Addendum.

Financial obligations of Participating States are limited to the orders placed by the departments or other state agencies and institutions having available funds.

Participating States incur no financial obligations on behalf of political subdivisions.

Unless otherwise specified in the solicitation, the resulting master price agreement(s) will be permissive.

DEFINITIONS:

“**Lead State**” means the State conducting this cooperative solicitation and centrally administering any resulting master price agreement with the permission of the Signatory States.

“**Master Price Agreement**” means this cooperative solicitation and contract, between the designated Lead State and the awarded contractors.

“**Offer**” or “**Bid**” or “**Proposal**” refers to the offer submitted in response to a solicitation, whether denominated as an invitation to bid, invitation for bid, request for proposal, or otherwise. “**Bidder**” or “**Offeror**” similarly refers to the person, company, or other entity submitting the bid or proposal that constitutes an offer capable of acceptance, regardless of the solicitation method used.

“**Permissive Price Agreement**” means that placement of orders through the price agreement is discretionary with Purchasing Entities. They may satisfy their requirements through the master price agreement without using statutory or regulatory procedures (e.g. invitations for bids) to solicit competitive bids or proposals. Purchasing Entities may, however,

satisfy requirements without using the master price agreement so long as applicable procurement statutes and rules are followed.

“Participating Addendum” means a bilateral agreement executed by a contractor and a Participating State (or a political subdivision with the consent of its state’s chief procurement officer) that clarifies the operation of the master price agreement for the State concerned, e.g. ordering procedures specific to a State, and may add other state-specific language or other requirements.

“Participating State” means a Signatory State that has indicated its intent to participate in a specific cooperative procurement/master price agreement by executing an Intent to Participate, or who has subsequently executed a Participating Addendum where required.

“Purchasing Entity” means a Participating State, or other legal entity, properly authorized by a Participating State to enter into a contract for the purchase of goods and/or services described in the cooperative procurement. Unless otherwise limited in the cooperative procurement or in a Participating Addendum, political subdivisions of Participating States are deemed Purchasing Entities.

“Signatory State” means any State who is a member of NASPO that has executed the Memorandum of Agreement (MOA) required to become a member of the NASPO Procurement Cooperative.

QUANTITY ESTIMATES: Estimated quantities are informational and not to be construed as a warranty of accuracy of historical or anticipated volumes or a guarantee to purchase any amount.

SPECIFICATIONS: Any deviation from specifications must be clearly indicated by offeror, otherwise, it will be considered that the proposal is in strict compliance. When BRAND NAMES or manufacturers’ numbers are stated in the specifications they are intended to establish a standard only and are not restrictive unless the solicitation says “no substitute.” Offers will be considered on other makes, models or brands having comparable quality, style, workmanship and performance characteristics. Alternate proposals offering lower quality or inferior performance will not be considered.

ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS: The Lead State reserves the right to accept or reject any or all bids or proposals, or parts of bids or proposals, and to waive informalities therein.

SAMPLES: Generally, when required, samples will be specifically requested in the solicitation. Samples, when required, are to be furnished free of charge. Except for those samples destroyed or mutilated during testing, samples will be returned at an offeror’s request, transportation collect.

CASH DISCOUNT TERMS: Offeror may quote a cash discount based upon early payment; however discounts offered for less than 30 days will not be considered in making the award. The date from which discount time is calculated shall be the date a correct invoice is received or receipt of shipment, whichever is later; except that if testing is performed, the date shall be the date of acceptance of the merchandise.

TAXES: Offered prices shall be exclusive of state sales and federal excise taxes. Where the state government entities are not exempt from sales taxes on sales within their state, the contractor shall add the sales taxes on the billing invoice as a separate entry.

MODIFICATION OR WITHDRAWAL OF BIDS AND PROPOSALS: Bids and proposals may be modified or withdrawn prior to the time set for receipt of bids or proposals. After the time set for receipt of bids or proposals, no proposal may be modified or withdrawn.

PATENTS, COPYRIGHTS, ETC: The Contractor shall release, defend, indemnify, and hold harmless NASPO, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of NASPO, the Participating States and the Purchasing Entities, from liability of any kind or nature, including the Contractor's use of any copyrighted or uncopyrighted composition, process, patented or unpatented invention, article or appliance furnished or used in performance of this contract.

AWARD: Multiple master price agreements may be awarded as a result of this solicitation. Awards in requests for proposals (competitive sealed proposals) shall be made to the responsible offeror(s) whose proposals are determined to be the most advantageous to the Participating States, taking into consideration price and the other evaluation factors set forth in the solicitation. Unless otherwise stated in the solicitation, an award in a solicitation denominated as an invitation to bid will be made to the lowest responsive and responsible bidder(s) meeting specifications and all bid terms and conditions. The Participating States reserve the right to award items separately or by grouping items, or by total lot.

NON-COLLUSION: By signing the proposal the offeror certifies that the proposal submitted, has been arrived at independently and has been submitted without collusion with, and without any agreement, understanding or planned common course of action with, any other vendor of materials, supplies, equipment or services described in the solicitation, designed to limit independent bidding or competition.

TERMINATION: Unless otherwise stated in the solicitation, any master price agreement entered into as a result of this solicitation may be terminated by either party upon 60-days notice, in writing, prior to the effective date of the termination. Further, any Participating State may terminate its participation upon 30-days written notice, unless otherwise limited or stated in the special terms and conditions of the solicitation. Any termination under this provision shall not effect the rights and obligations attending orders outstanding at the time of cancellation, including any right of any Purchasing Entity to indemnification by the Contractor, rights of payment for goods/services delivered and accepted, and rights attending any warranty or default in performance in association with any order.

DEFAULT AND REMEDIES:

A. Any of the following shall constitute cause to declare the master price agreement or any order under this master price agreement in default:

- (1) Nonperformance of contractual requirements; or
- (2) A material breach of any term or condition of this master price agreement.

B. A written notice of default, and an opportunity to cure, shall be issued by the party claiming default, whether the Lead State (in the case of breach of the master price agreement), a Participating State (in the case of a breach of the Participating Addendum), the Purchasing Entity (with respect to any order), or the Contractor. Time allowed for cure shall not diminish or eliminate any liability for liquidated or other damages.

C. If the default remains after the opportunity for cure, the non-defaulting party may:

- (1) Exercise any remedy provided by law or equity;
- (2) Terminate the master price agreement or any portion thereof, including any orders issued against the master price agreement;
- (3) Impose liquidated damages, as specified in the solicitation or master price agreement;

(4) In the case of default by the contractor, and to the extent permitted by the law of the Participating State or Purchasing Entity, suspend contractor from receiving future solicitations.

LAWS AND REGULATIONS: Any and all supplies, services and equipment offered and furnished shall comply fully with all applicable Federal and State laws and regulations.

CONFLICT OF TERMS: In the event of any conflict between these standard terms and conditions and any special terms and conditions in the solicitation, the special terms and conditions shall govern.

REPORTS: The contractor shall submit quarterly reports to the Lead State contract administrator, and upon request to any Participating State, showing the quantities and dollar volume of purchases by each Purchasing Entity.

HOLD HARMLESS: The contractor shall release, defend, indemnify and hold harmless NASPO, the Participating States, and the Purchasing Entities, as well as the officers, agents and employees of NASPO, the Participating States and the Purchasing Entities, from and against any damage, cost or liability, including reasonable attorneys fees for any or all injuries to persons, property or claims for money damages arising from acts or omissions of the contractor, its employees or subcontractors or volunteers.

ORDER NUMBERS: Master price agreement numbers and purchase order numbers shall be clearly shown on all acknowledgments, shipping labels, packing slips, invoices, and on all correspondence.

GOVERNING LAW AND VENUE: This procurement shall be governed and the resulting master price agreement construed in accordance with the laws of the Lead State. The construction and effect of any Participating Addendum or order against the master price agreement shall be governed by and construed in accordance with the laws of the Purchasing Entity's State. Venue for any claim, dispute or action concerning the construction and effect of the master price agreement shall be in the Lead State. Venue for any claim, dispute or action concerning an order placed against the master price agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

DELIVERY: The prices offered shall be the delivered price to any NASPO state agency or purchasing entity. All deliveries shall be F.O.B. destination with all transportation and handling charges paid by the contractor. Responsibility and liability for loss or damage shall remain the Contractor until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. The minimum shipment amount will be found in the special terms and conditions. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an order to be shipped without transportation charges that is back ordered shall be shipped without charge.

WARRANTY: The contractor acknowledges that the Uniform Commercial Code applies to this master price agreement. In general, the contractor warrants that: (a) the product will do what the salesperson said it would do, (b) the product will live up to all specific claims that the manufacturer makes in their advertisements, (c) the product will be suitable for the ordinary purposes for which such product is used, (d) the product will be suitable for any *special purposes* that the Purchasing Entity has relied on the contractor's skill or judgment to consider when it advised the Purchasing Entity about the product, (e) the product has been properly designed and manufactured, and (f) the product is free of significant defects or unusual problems about which the Purchasing Entity has not been warned.

The contractor agrees to warrant and assume responsibility for each hardware, firmware, and/or software product (hereafter called the product) that it licenses, or sells, to the Purchasing Entity under this master price agreement. When applicable, Contractor warrants that product(s) furnished pursuant to this contract shall, when used in accordance with the

product documentation, be able to accurately process date/time data (including, but not limited to, calculating, comparing, and sequencing) transitions, including leap year calculations. Where a contractor proposes or an acquisition requires that specific products must perform as a package or system, this warranty shall apply to the products as a system.

Where contractor is providing ongoing services, including but not limited to: i) consulting, integration, code or data conversion, ii) maintenance or support services, iii) data entry or processing, or iv) contract administration services (e.g., billing, invoicing, claim processing), contractor warrants that services shall be provided in an accurate and timely manner without interruption, failure or error due to the inaccuracy of contractor's business operations in processing date/time data (including, but not limited to, calculating, comparing, and sequencing) various date/time transitions, including leap year calculations. Contractor shall be responsible for damages resulting from any delays, errors or untimely performance resulting therefrom, including but not limited to the failure or untimely performance of such services.

This Date/Time Warranty shall survive beyond termination or expiration of this contract through: a) ninety (90) days or b) the contractor's or product manufacturer/developer's stated date/time warranty term, whichever is longer. Nothing in this warranty statement shall be construed to limit any rights or remedies otherwise available under this contract for breach of warranty.

AMENDMENTS: The terms of this master price agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without prior written approval of the Master Price Agreement Administrator of the Lead State.

ASSIGNMENT/SUBCONTRACT: Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this master price agreement, in whole or in part, without the prior written approval of the Master Price Agreement Administrator of the Lead State.

NONDISCRIMINATION: The offeror agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibit discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, or national origin; and further agrees to abide by Executive Order No. 11246, as amended, which prohibits discrimination on basis of sex; 45 CFR 90 which prohibits discrimination on the basis of age, and Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of disabilities. The offeror further agrees to furnish information and reports to Participating State(s), upon request, for the purpose of determining compliance with these statutes. Offeror agrees to comply with each individual state's certification requirements, if any, as stated in the special terms and conditions. This master price agreement may be canceled if the offeror fails to comply with the provisions of these laws and regulations. The offeror must include this provision in every subcontract relating to purchases by the States to insure that subcontractors and vendors are bound by this provision.

SEVERABILITY: If any provision of this master price agreement is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected; and the rights and obligations of the parties shall be construed and enforced as if the master price agreement did not contain the particular provision held to be invalid.

INSPECTIONS: Goods furnished under this master price agreement shall be subject to inspection and testing by the Purchasing Entity at times and places determined by the Purchasing Entity. If the Purchasing Entity finds goods furnished to be incomplete or not in compliance with proposal specifications, the Purchasing Entity may reject the goods and require Contractor to either correct them without charge or deliver them at a reduced price, which is equitable under the circumstances. If Contractor is unable or refuses to correct such goods within a time deemed reasonable by the Purchasing Entity, the Purchasing Entity may

cancel the order in whole or in part. Nothing in this paragraph shall adversely affect the Purchasing Entity's rights including the rights and remedies under the Uniform Commercial Code.

PAYMENT: Payment for completion of a master price agreement order is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. The Contractor may assess overdue account charges on the outstanding balance in accordance with, and up to the maximum allowed by, the laws of the participating state. Payments may be remitted by mail or electronic funds transfer. Payments may also be made via a Purchasing Entity's "Purchasing Card".

FORCE MAJEURE: Neither party to this master price agreement shall be held responsible for delay or default caused by fire, riot, acts of God and/or war which is beyond that party's reasonable control. The Lead State may terminate this master price agreement after determining such delay or default will reasonably prevent successful performance of the master price agreement.

HAZARDOUS CHEMICAL INFORMATION: The Contractor will provide one set of the appropriate material safety data sheet(s) and container label(s) upon delivery of a hazardous material to the Purchasing Entity agency. All safety data sheets and labels will be in accordance with each participating state's requirements.

FIRM PRICE: Unless otherwise stated in the special terms and conditions, for the purpose of award, offers made in accordance with this solicitation must be good and firm for a period of ninety (90) days from the date of receipt of bids or proposals. Prices must remain firm for the full term of the master price agreement.

EXTENSION OF PRICES: In the case of error in the extension of prices in the proposal, the unit prices will govern.

PROPOSAL PREPARATION COSTS: NASPO and the lead state are not liable for any costs incurred by the offeror in preparation of the bid or proposal.

CERTIFICATION REGARDING CONFLICT OF INTEREST: Contractor certifies that it has not offered or given any gift or compensation prohibited by the state laws of any Participating State to any officer or employee of NASPO or Participating States to secure favorable treatment with respect to being awarded this contract.

INDEPENDENT CONTRACTOR: Contractor shall be an independent contractor, and as such shall have no authorization, express or implied to bind the Participating States to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as agent for NASPO or the states, except as expressly set forth herein.

POLITICAL SUBDIVISION PARTICIPATION: Participation under this master price agreement by political subdivisions (i.e., statutorily eligible colleges, school districts, counties, cities, etc.) of the NASPO participating states shall be voluntarily determined by the political subdivision.

After the solicitation has closed, and an award has been made, additional non-NASPO purchasing entities in non-Participating States may be added with the consent of the chief procurement official in the non-Participating State, the contractor and the Lead State (on behalf of the NASPO Participating States) through the execution of an agreement as required by the lead state, and the execution of a Participating Addendum.

The contractor agrees to supply the political subdivisions based upon the same terms, conditions and prices.

CERTIFICATION REGARDING DEBARMENT: The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or

voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. If the Contractor cannot certify this statement, attach a written explanation for review by NASPO.

RECORDS ADMINISTRATION: The Contractor will maintain, or supervise the maintenance of all records necessary to properly account for the payments made to the Contractor for costs authorized by this master price agreement. These records will be retained by the Contractor for at least four years after the master price agreement terminates, or until all audits initiated within the four years have been completed, whichever is later.

AUDIT OF RECORDS: The Contractor agrees to allow NASPO, State and Federal auditors, and state agency staff access to all the records related to this master price agreement, and the right to copy those records, for audit, inspection and monitoring of services. Such access will be during normal business hours, or by appointment.

PRICES AS CEILING:

Master Price Agreement prices represent ceiling prices for the supplies and services priced in the master price agreement.

The vendor shall report to the Lead State any price reduction or discount, or other more favorable terms, offered to any Purchasing Entity.

In instances NOT related to the established standards, committed volumes or volume bulk purchases of a participating state or states, the awarded vendor agrees to negotiate in good faith to reestablish ceiling prices or other more favorable terms and conditions applicable to future orders.

STATE PARTICIPATION/UNIQUE TERMS AND CONDITIONS:

Apart from the Lead State conducting the solicitation, the States indicated on Attachment A have signified their initial intent to participate in a Master Price Agreement resulting from this Solicitation. Attachment A of the Solicitation includes any significant modifications to these terms and conditions or State-specific provisions required by the laws, regulations, or procurement practices of the State(s). Final participation in the Master Price Agreement by the State(s) shall be signified through the execution of a Participating Addendum.

After the solicitation has closed and an award has been made, additional NASPO Procurement Cooperative member States may be added with the consent of the contractor and the Lead State (on behalf of the NASPO Participating States) through execution of a Participating Addendum.

WASHINGTON

STATE OF WASHINGTON TERMS AND CONDITIONS

a) OVERVIEW

CONTRACT SCOPE AND MODIFICATIONS

The Purchasing Activity reserves the right to modify this Contract by mutual agreement between the Purchasing Activity and the Contractor, so long as such modification is substantially within the scope of the original Contract. Such modifications will be evidenced by issuance of a written authorized amendment by the Contract Administrator.

CONTRACT ADMINISTRATION

PURCHASING ACTIVITY CONTRACT ADMINISTRATOR

The Purchasing Activity shall appoint a single point of contact that will be the Contract Administrator for this Contract and will provide oversight of the activities conducted hereunder. The Contract Administrator will be the principal contact for Contractor concerning business activities under this Contract. The Purchasing Activity will notify Contractor, in writing, when there is a new Contract Administrator assigned to this Contract.

CONTRACTOR SUPERVISION AND COORDINATION

Contractor shall:

1. Competently and efficiently, supervise and coordinate the implementation and completion of all Contract requirements specified herein;
2. Identify the Contractor's Representative, who will be the principal point of contact for the Purchasing Activity Contract Administrator concerning Contractor's performance under this Contract.
3. Immediately notify the Contract Administrator in writing of any change of the designated Contractor's Representative assigned to this Contract; and
4. Violation of any provision of this paragraph may be considered a material breach establishing grounds for Contract termination.

Be bound by all written communications given to or received from the Contractor's Representative.

CONTRACT MANAGEMENT

Upon award of this contract, the contractor shall:

1. Review the impact of the award and take the necessary steps needed to ensure that contractual obligations will be fulfilled.
2. Promote and market the use of this contract to all authorized contract Purchasers.
3. Ensure that those who endeavor to utilize this contract are authorized Purchasers under this Contract.
4. At no additional charge, assist Purchasers in the following manner to make the most cost effective, value based, purchases including, but not limited to:
 - a) Visiting the Purchaser site and providing Purchaser with materials/supplies/equipment recommendations.
 - b) Providing Purchasers with a detailed list of contract items including current contract pricing and part numbers.
5. The contractor shall designate a customer service representative who will be responsible for addressing Purchaser issues including, but not limited to:
 - a) Logging requests for service, ensuring repairs are completed in a timely manner, dispatching service technicians, and processing warranty claim documentation.
 - b) Providing Purchasers with regular and timely status updates in the event of an order or repair fulfillment delay.

6. Acting as the lead and liaison between the manufacturer and Purchaser in resolving warranty claims for contract items purchased.

CHANGES

Alterations to any of the terms, conditions, or requirements of this Contract shall only be effective upon written issuance of a mutually agreed Contract Amendment by the Contract Administrator. However, changes to point of contact information may be updated without the issuance of a mutually agreed Contract Amendment.

STATEWIDE VENDOR PAYMENT REGISTRATION

Contractors are required to be registered in the Statewide Vendor Payment system, prior to submitting a request for payment under this Contract. Purchasers who are Washington state agencies require registration to be completed prior to payment.

The Washington State Office of Financial Management (OFM) maintains a central contractor registration file for Washington State agencies to process contractor payments.

To obtain registration materials go to <http://www.ofm.wa.gov/accounting/vendors.asp> the form has two parts; Part 1 is the information required to meet the above registration condition. Part 2 allows the state to pay invoices electronically with direct deposit and is the state's most efficient method of payment and you are encouraged to sign up for this form of payment.

SALES & SUBCONTRACTOR REPORTS

The Contractor shall provide a Sales and Subcontractor Report to the Office of State Procurement on a quarterly basis in the electronic format provided by the Office of State Procurement at: <https://fortress.wa.gov/ga/apps/CSR/Login.aspx>.

Reports must be submitted electronically within thirty (30) days after the end of the calendar quarter, i.e., no later than April 30th, July 31st, October 31st and January 31st.

WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS)

Contractor shall be registered in the Contractor registration system, Washington's Electronic Business Solution (WEBS) www.ga.wa.gov/webs, maintained by the Washington State Department of General Administration. Contractors already registered need not re-register. It is the sole responsibility of Contractor to properly register with WEBS and maintain an accurate Contractor profile in WEBS.

TAXES, FEES AND LICENSES

Taxes:

Where required by statute or regulation, the Contractor shall pay for and maintain in current status all taxes that are necessary for Contract performance. Unless otherwise indicated, the Purchaser agrees to pay State of Washington taxes on all applicable materials, supplies, services and/or equipment purchased. No charge by the Contractor shall be made for federal excise taxes and the Purchaser agrees to furnish Contractor with an exemption certificate where appropriate.

Collection of Retail Sales and Use Taxes:

In general, Contractors engaged in retail sales activities within the State of Washington are required to collect and remit sales tax to Department of Revenue (DOR). In general, out-of-state Contractors must collect and remit "use tax" to Department of Revenue if the activity carried on by the seller in the State of Washington is significantly associated with Contractor's ability to establish or maintain a market for its products in Washington State. Examples of such activity include where the Contractor either directly or by an agent or other representative:

1. Maintains an in-state office, distribution house, sales house, warehouse, service enterprise, or any other in-state place of business;
2. Maintains an in-state inventory or stock of goods for sale;
3. Regularly solicits orders from Purchasers located within the State of Washington via sales representatives entering the State of Washington;
4. Sends other staff into the State of Washington (e.g. product safety engineers, etc.) to interact with Purchasers in an attempt to establish or maintain market(s); or

5. Other factors identified in [WAC 458-20](#).

Department of Revenue Registration for Out-of-State Contractors:

Out-of-state Contractors meeting any of the above criteria must register and establish an account with the Department of Revenue. Refer to [WAC 458-20-193](#), and call the Department of Revenue at 800-647-7706 for additional information. When out-of-state Contractors are not required to collect and remit “use tax,” Purchasers located in the State of Washington are responsible for paying this tax, if applicable, directly to the Department of Revenue.

Fees/Licenses:

After award of Contract, and prior to commencing performance under the Contract, the Contractor shall pay for and maintain in a current status any licenses, fees, assessments, permit charges, etc., which are necessary for Contract performance. It is the Contractor's sole responsibility to maintain licenses and to monitor and determine any changes or the enactment of any subsequent regulations for said fees, assessments, or charges and to immediately comply with said changes or regulations during the entire term of this Contract.

Customs/Brokerage Fees:

Contractor shall take all necessary actions, including, but not limited to, paying all customs, duties, brokerage, and/or import fees, to ensure that materials, supplies, and/or equipment purchased under the Contract are expedited through customs. Failure to do so may subject Contractor to liquidated damages as identified herein and/or to other remedies available by law or Contract. Neither the Purchasing Activity nor the Purchaser will incur additional costs related to Contractor's payment of such fees.

Taxes on Invoice:

Contractor shall calculate and enter the appropriate Washington State and local sales tax on all invoices. Tax is to be computed on new items after deduction of any trade-in in accordance with [WAC 458-20-247](#).

MINORITY AND WOMEN'S BUSINESS ENTERPRISE (MWBE) PARTICIPATION

With each invoice for payment and within thirty (30) days of Purchasers request, Contractor shall provide Purchaser an *Affidavit of Amounts Paid*. The *Affidavit of Amounts Paid* shall either state that Contractor still maintains its MWBE certification, or state that its Subcontractor(s) still maintain(s) its/their MWBE certification(s) and specify the amounts paid to each certified MWBE Subcontractor under this Contract. Contractor shall maintain records supporting the *Affidavit of Amounts Paid* in accordance with this Contract's **Retention of Records** section.

INFORMATION AND COMMUNICATIONS

ADVERTISING

Contractor shall not publish or use any information concerning this Contract in any format or media for advertising or publicity without prior written consent from the Contract Administrator.

RETENTION OF RECORDS

The Contractor shall maintain all books, records, documents, data and other evidence relating to this Contract and the provision of materials, supplies, services and/or equipment described herein, including, but not limited to, accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract. Contractor shall retain such records for a period of six (6) years following the date of final payment. At no additional cost, these records, including materials generated under the Contract, shall be subject at all reasonable times to inspection, review, or audit by the Purchasing Activity, personnel duly authorized by the Purchasing Activity, the Washington State Auditor's Office, and federal and state officials so authorized by law, regulation or agreement.

If any litigation, claim or audit is started before the expiration of the six (6) year period, the records shall be retained until final resolution of all litigation, claims, or audit findings involving the records.

PROPRIETARY OR CONFIDENTIAL INFORMATION

To the extent consistent with [Chapter 42.56 RCW](#), the Public Disclosure Act, the Purchasing Activity shall maintain the confidentiality of Contractor's information marked confidential or proprietary. If a request is made to view Contractor's proprietary information, the Purchasing Activity will notify Contractor of the request and of

the date that the records will be released to the requester unless Contractor obtains a court order enjoining that disclosure. If Contractor fails to obtain the court order enjoining disclosure, the Purchasing Activity will release the requested information on the date specified.

The State's sole responsibility shall be limited to maintaining the above data in a secure area and to notify Contractor of any request(s) for disclosure for so long as the Purchasing Activity retains Contractor's information in the Purchasing Activity records. Failure to so label such materials or failure to timely respond after notice of request for public disclosure has been given shall be deemed a waiver by Contractor of any claim that such materials are exempt from disclosure.

NON-ENDORSEMENT AND PUBLICITY

Neither the Purchasing Activity nor the Purchasers are endorsing the Contractor's Products or Services, nor suggesting that they are the best or only solution to their needs. Contractor agrees to make no reference to the Purchasing Activity, any Purchaser or the state of Washington in any literature, promotional material, brochures, sales presentation or the like, regardless of method of distribution, without the prior review and express written consent of the Purchasing Activity.

PROTECTION OF CONFIDENTIAL AND PERSONAL INFORMATION

Contractor acknowledges that some of the material and information that may come into its possession or knowledge in connection with this Contract or its performance may consist of information that is exempt from disclosure to the public or other unauthorized persons under either [Chapter 42.17 RCW](#) or other state or federal statutes ("Confidential Information"). Confidential Information includes, but is not limited to, names, addresses, Social Security numbers, e-mail addresses, telephone numbers, financial profiles, credit card information, driver's license numbers, medical data, law enforcement records, agency source code or object code, agency security data, or information identifiable to an individual that relates to any of these types of information. Contractor agrees to hold Confidential Information in strictest confidence and not to make use of Confidential Information for any purpose other than the performance of this Contract, to release it only to authorized employees or Subcontractors requiring such information for the purposes of carrying out this Contract, and not to release, divulge, publish, transfer, sell, disclose, or otherwise make the information known to any other party without Purchaser's express written consent or as provided by law. Contractor agrees to release such information or material only to employees or Subcontractors who have signed a nondisclosure agreement, the terms of which have been previously approved by Purchaser. Contractor agrees to implement physical, electronic, and managerial safeguards to prevent unauthorized access to Confidential Information.

"Personal information" including, but not limited to, "Protected Health Information" (PHI) under Health Insurance Portability And Accountability Act (HIPAA), individuals' names, addresses, phone numbers, birth dates, and social security numbers collected, used, or acquired in connection with this Contract shall be protected against unauthorized use, disclosure, modification or loss.

HIPAA establishes national minimum standards for the use and disclosure of certain health information. The Contractor must comply with all HIPAA requirements and rules when determined applicable by the Purchaser. If Purchaser determines that (1) Purchaser is a "covered entity" under HIPAA, and that (2) Contractor will perform "business associate" services and activities covered under HIPAA, then at Purchaser's request, Contractor agrees to execute Purchaser's business associate Contract in compliance with HIPAA.

Contractor shall ensure its directors, officers, employees, Subcontractors or agents use personal information solely for the purposes of accomplishing the services set forth herein. Contractor and its Subcontractors agree not to release, divulge, publish, transfer, sell or otherwise make known to unauthorized persons personal information without the express written consent of the Agency or as otherwise required by law.

Any breach of this provision may result in termination of the Contract and demand for return of all personal information. The Contractor agrees to indemnify and hold harmless the State of Washington and the Purchaser for any damages related to both: (1) the Contractor's unauthorized use of personal information and (2) the unauthorized use of personal information by unauthorized persons as a result of Contractor's failure to sufficiently protect against unauthorized use, disclosure, modification, or loss.

GENERAL PROVISIONS

GOVERNING LAW/VENUE

This Contract shall be construed and interpreted in accordance with the laws of the State of Washington, and the venue of any action brought hereunder shall be in the Superior Court for Thurston County.

SURVIVORSHIP

All transactions executed for Products and Services provided pursuant to the authority of this Contract shall be bound by all of the terms, conditions, Prices and Price discounts set forth herein, notwithstanding the expiration of the initial term of this Contract or any extension thereof. Further, the terms, conditions and warranties contained in this Contract that by their sense and context are intended to survive the completion of the performance, cancellation or termination of this Contract shall so survive. In addition, the terms of the sections titled Overpayments to Contractor; Ownership/Rights in Data; Contractor's Commitments, Warranties and Representations; Protection of Purchaser's Confidential Information; Section Headings, Incorporated Documents and Order of Precedence; Publicity; Retention of Records; Patent and Copyright Indemnification; Contractor's Proprietary Information; Disputes; and Limitation of Liability shall survive the termination of this Contract.

INDEPENDENT STATUS OF CONTRACTOR

In the performance of this Contract, the parties will be acting in their individual, corporate or governmental capacities and not as agents, employees, partners, joint venturers, or associates of one another. The parties intend that an independent contractor relationship will be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. Contractor shall not make any claim of right, privilege or benefit which would accrue to an employee under [Chapter 41.06 RCW](#), or [Title 51 RCW](#).

GIFTS AND GRATUITIES

Contractor shall comply with all state laws regarding gifts and gratuities, including but not limited to: [RCW 43.19.1937](#), [RCW 43.19.1939](#), [RCW 42.52.150](#), [RCW 42.52.160](#), and [RCW 42.52.170](#) under which it is unlawful for any person to directly or indirectly offer, give or accept gifts, gratuities, loans, trips, favors, special discounts, services, or anything of economic value in conjunction with state business or contract activities.

Under [RCW 43.19.1937](#) and the Ethics in Public Service Law, [Chapter 42.52 RCW](#) state officers and employees are prohibited from receiving, accepting, taking or seeking gifts (except as permitted by [RCW 42.52.150](#)) if the officer or employee participates in contractual matters relating to the purchase of goods or services.

IMMUNITY AND HOLD HARMLESS

To the fullest extent permitted by law, Contractor shall indemnify, defend and hold harmless State, agencies of State and all officials, agents and employees of State, from and against all claims for injuries, death or damage to property arising out of or resulting from the performance of the contract. Contractor's obligation to indemnify, defend, and hold harmless includes any claim by Contractors' agents, employees, representatives, or any subcontractor or its employees.

Contractor expressly agrees to indemnify, defend, and hold harmless the State for any claim arising out of or incident to Contractor's or any subcontractor's performance or failure to perform the contract. Contractor shall be required to indemnify, defend, and hold harmless the State only to the extent claim is caused in whole or in part by negligent acts or omissions of Contractor.

Contractor waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless State and its agencies, officials, agents or employees.

PERSONAL LIABILITY

It is agreed by and between the parties hereto that in no event shall any official, officer, employee or agent of the State of Washington when executing their official duties in good faith, be in any way personally liable or responsible for any agreement herein contained whether expressed or implied, nor for any statement or representation made herein or in any connection with this agreement.

INSURANCE General Requirements:

Contractor shall, at their own expense, obtain and keep in force insurance as follows until completion of the Contract. Upon request, Contractor shall furnish evidence in the form of a certificate of insurance satisfactory to the State of Washington that insurance, in the following kinds and minimum amounts, has been secured. Failure to provide proof of insurance, as required, will result in Contract cancellation.

Contractor shall include all Subcontractors as insureds under all required insurance policies, or shall furnish separate Certificates of Insurance and endorsements for each Subcontractor. Subcontractor(s) must comply fully with all insurance requirements stated herein. Failure of Subcontractor(s) to comply with insurance requirements does not limit Contractor’s liability or responsibility.

All insurance provided in compliance with this Contract shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the state.

Specific Requirements:

Employers Liability (Stop Gap): The Contractor will at all times comply with all applicable workers’ compensation, occupational disease, and occupational health and safety laws, statutes, and regulations to the full extent applicable and will maintain Employers Liability insurance with a limit of no less than \$1,000,000.00. The State of Washington will not be held responsible in any way for claims filed by the Contractor or their employees for services performed under the terms of this Contract.

Commercial General Liability Insurance: The Contractor shall at all times during the term of this Contract, carry and maintain commercial general liability insurance and if necessary, commercial umbrella insurance for bodily injury and property damage arising out of services provided under this Contract. This insurance shall cover such claims as may be caused by any act, omission, or negligence of the Contractor or its officers, agents, representatives, assigns, or servants.

The insurance shall also cover bodily injury, including disease, illness and death, and property damage arising out of the Contractor’s premises/operations, independent Contractors, products/completed operations, personal injury and advertising injury, and contractual liability (including the tort liability of another assumed in a business Contract), and contain separation of insured’s (cross liability) conditions.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by general liability or umbrella insurance.

The limits of liability insurance shall not be less than as follows:

General Aggregate Limits (other than products-completed operations)	\$
	2
	,
	0
	0
	0
	,
	0
	0
	0
Products-Completed Operations Aggregate	\$
	2
	,
	0
	0
	0
	,
	0
	0
	0
Personal and Advertising Injury Aggregate	\$
	1
	,
	0

	0
	0
	,
	0
	0
	0
Each Occurrence (applies to all of the above)	\$
	1
	,
	0
	0
	0
	,
	0
	0
	0
Fire Damage Limit (per occurrence)	\$
	5
	0
	,
	0
	0
	0
Medical Expense Limit (any one person)	\$
	5
	,
	0
	0
	0

Business Auto Policy (BAP):

In the event that services delivered pursuant to this Contract involve the use of vehicles, or the transportation of clients, automobile liability insurance shall be required. The coverage provided shall protect against claims for bodily injury, including illness, disease, and death; and property damage caused by an occurrence arising out of or in consequence of the performance of this service by the Contractor, Subcontractor, or anyone employed by either.

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a combined single limit not less than \$1,000,000 per occurrence. The business auto liability shall include Hired and Non-Owned coverage.

Contractor waives all rights against the State of Washington for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Additional Insurance Provisions:

All above insurance policies shall include, but not be limited to, the following provisions:

Additional Insured:

The State of Washington and all authorized Purchasers shall be named as an additional insured on all general liability, umbrella, excess, and property insurance policies. All policies shall be primary over any other valid and collectable insurance.

Notice of Policy(ies) Cancellation/Non-renewal:

For insurers subject to [Chapter 48.18 RCW](#) (Admitted and regulated by the Washington State Insurance Commissioner) a written notice shall be given to the director of purchasing or designee forty-five (45) calendar

days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Surplus Lines:

For insurers subject to [Chapter 48.15 RCW](#) (Surplus Lines) a written notice shall be given to the director of purchasing or designee twenty (20) calendar days prior to cancellation or any material change to the policy(ies) as it relates to this Contract. Written notice shall include the affected Contract reference number.

Cancellation for Non-payment to Premium:

If cancellation on any policy is due to non-payment of premium, a written notice shall be given the director of purchasing or designee ten (10) calendar days prior to cancellation. Written notice shall include the affected Contract reference number.

Identification:

Policy(ies) and Certificates of Insurance shall include the affected Contract reference number.

Insurance Carrier Rating:

The insurance required above shall be issued by an insurance company authorized to do business within the State of Washington. Insurance is to be placed with a carrier that has a rating of A- Class VII or better in the most recently published edition of Best's Reports. Any exception must be reviewed and approved by the Risk Manager for the State of Washington, by submitting a copy of the Contract and evidence of insurance before Contract commencement. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with [Chapter 48.15 RCW](#) and [Chapter 284-15 WAC](#).

Excess Coverage:

The limits of all insurance required to be provided by the Contractor shall be no less than the minimum amounts specified. However, coverage in the amounts of these minimum limits shall not be construed to relieve the Contractor from liability in excess of such limits.

Limit Adjustments:

The state reserves the right to increase or decrease limits as appropriate.

INDUSTRIAL INSURANCE COVERAGE

The Contractor shall comply with the provisions of [Title 51 RCW](#) Industrial Insurance. If the Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, the Purchasing Activity may terminate this Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from the Contractor.

OSHA AND WISHA REQUIREMENTS

Contractor agrees to comply with conditions of the Federal Occupational Safety and Health Administration (OSHA) and, if manufactured or stored in the State of Washington, the Washington Industrial Safety and Health Act (WISHA) and the standards and regulations issued there under, and certifies that all items furnished and purchased will conform to and comply with said laws, standards and regulations. Contractor further agrees to indemnify and hold harmless Purchasing Activity and Purchaser from all damages assessed against Purchaser as a result of Contractor's failure to comply with those laws, standards and regulations, and for the failure of the items furnished under the Contract to so comply.

ANTITRUST

The state maintains that, in actual practice, overcharges resulting from antitrust violations are borne by the Purchaser. Therefore, the Contractor hereby assigns to the State of Washington any and all of the Contractor's claims for such price fixing or overcharges which arise under federal or state antitrust laws, relating to the materials, supplies, services and/or equipment purchased under this Contract.

WAIVER

Failure or delay of the Purchasing Activity or Purchaser to insist upon the strict performance of any term or condition of the Contract or to exercise any right or remedy provided in the Contract or by law; or the Purchasing Activity's or Purchaser's acceptance of or payment for materials, supplies, services and/or

equipment, shall not release the Contractor from any responsibilities or obligations imposed by this Contract or by law, and shall not be deemed a waiver of any right of the Purchasing Activity or Purchaser to insist upon the strict performance of the entire agreement by the Contractor. In the event of any claim for breach of Contract against the Contractor, no provision of this Contract shall be construed, expressly or by implication, as a waiver by the Purchasing Activity or Purchaser of any existing or future right and/or remedy available by law.

DISPUTES AND REMEDIES

PROBLEM RESOLUTION AND DISPUTES

Problems arising out of the performance of this Contract shall be resolved in a timely manner at the lowest possible level with authority to resolve such problem. If a problem persists and cannot be resolved, it may be escalated within each organization.

In the event a bona fide dispute concerning a question of fact arises between the Purchasing Activity or the Purchaser and Contractor and it cannot be resolved between the parties through the normal problem escalation processes, either party may initiate the dispute resolution procedure provided herein.. The dispute shall be handled by a Dispute Resolution Panel in the following manner. Each party to this Contract shall appoint one member to the Panel. These two appointed members shall jointly appoint an additional member. The Dispute Resolution Panel shall review the facts, Contract terms and applicable statutes and rules and make a determination of the dispute as quickly as reasonably possible. The determination of the Dispute Resolution Panel shall be final and binding on the parties hereto. Purchasing Activity and/or Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

In the event a bona fide dispute concerning a question of fact arises between Purchasing Activity or the Purchaser and Contractor and it cannot be resolved between the parties through the normal escalation processes, either party may initiate the dispute resolution procedure provided herein.

The initiating party shall reduce its description of the dispute to writing and deliver it to the responding party. The responding party shall respond in writing within three (3) Business Days. The initiating party shall have three (3) Business Days to review the response. If after this review a resolution cannot be reached, both parties shall have three (3) Business Days to negotiate in good faith to resolve the dispute.

If the dispute cannot be resolved after three (3) Business Days, a Dispute Resolution Panel may be requested in writing by either party who shall also identify the first panel member. Within three (3) Business Days of receipt of the request, the other party will designate a panel member. Those two panel members will appoint a third individual to the Dispute Resolution Panel within the next three (3) Business Days.

The Dispute Resolution Panel will review the written descriptions of the dispute, gather additional information as needed, and render a decision on the dispute in the shortest practical time.

Each party shall bear the cost for its panel member and share equally the cost of the third panel member.

Both parties agree to be bound by the determination of the Dispute Resolution Panel.

Both parties agree to exercise good faith in dispute resolution and to settle disputes prior to using a Dispute Resolution Panel whenever possible.

Purchasing Activity, the Purchaser and Contractor agree that, the existence of a dispute notwithstanding, they will continue without delay to carry out all their respective responsibilities under this Contract that are not affected by the dispute.

If the subject of the dispute is the amount due and payable by Purchaser for materials, supplies, services and/or equipment being provided by Contractor, Contractor shall continue providing materials, supplies, services and/or equipment pending resolution of the dispute provided Purchaser pays Contractor the amount Purchaser, in good faith, believes is due and payable, and places in escrow the difference between such amount and the amount Contractor, in good faith, believes is due and payable.

ADMINISTRATIVE SUSPENSION

When it in the best interest of the state, the Purchasing Activity may at any time, and without cause, suspend the Contract or any portion thereof for a period of not more than thirty (30) calendar days per event by written notice from the Contract Administrator to the Contractor's Representative. Contractor shall resume performance on the

next business day following the 30th day of suspension unless an earlier resumption date is specified in the notice of suspension. If no resumption date was specified in the notice of suspension, the Contractor can be demanded and required to resume performance within the 30 day suspension period by the Contract Administrator providing the Contractor's Representative with written notice of such demand.

ALTERNATIVE DISPUTE RESOLUTION FEES AND COSTS

In the event that the parties engage in arbitration, mediation or any other alternative dispute resolution forum to resolve a dispute in lieu of litigation, both parties shall share equally in the cost of the alternative dispute resolution method, including cost of mediator or arbitrator. In addition, each party shall be responsible for its own attorneys' fees incurred as a result of the alternative dispute resolution method.

NON-EXCLUSIVE REMEDIES

The remedies provided for in this Contract shall not be exclusive but are in addition to all other remedies available under law.

LIMITATION OF LIABILITY

The parties agree that neither Contractor, Purchasing Activity nor Purchaser shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except a claim related to bodily injury or death, or a claim or demand based on patent, copyright, or other intellectual property right infringement, in which case liability shall be as set forth elsewhere in this Contract. This section does not modify any sections regarding liquidated damages or any other conditions as are elsewhere agreed to herein between the parties. The damages specified in the sections titled Termination for Default and Retention of Records are not consequential, incidental, indirect, or special damages as that term is used in this section.

Neither the Contractor, the Purchasing Activity nor Purchaser shall be liable for damages arising from causes beyond the reasonable control and without the fault or negligence of the Contractor, the Purchasing Activity or Purchaser. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of a governmental body other than the Purchasing Activity or the Purchaser acting in either its sovereign or contractual capacity, war, explosions, fires, floods, earthquakes, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather; but in every case the delays must be beyond the reasonable control and without fault or negligence of the Contractor, the Purchasing Activity or the Purchaser, or their respective Subcontractors.

If delays are caused by a Subcontractor without its fault or negligence, Contractor shall not be liable for damages for such delays, unless the Services to be performed were obtainable on comparable terms from other sources in sufficient time to permit Contractor to meet its required performance schedule.

Neither party shall be liable for personal injury to the other party or damage to the other party's property except personal injury or damage to property proximately caused by such party's respective fault or negligence.

CONTRACT TERMINATION

MATERIAL BREACH

A Contractor may be Terminated for Cause by the Purchasing Activity, at the sole discretion of the Contract Administrator, for failing to perform a contractual requirement or for a material breach of any term or condition. Material breach of a term or condition of the Contract may include but is not limited to:

1. Contractor failure to perform services or deliver materials, supplies, or equipment by the date required or by an alternate date as mutually agreed in a written amendment to the Contract;
2. Contractor failure to carry out any warranty or fails to perform or comply with any mandatory provision of the contract;
3. Contractor becomes insolvent or in an unsound financial condition so as to endanger performance hereunder;
4. Contractor becomes the subject of any proceeding under any law relating to bankruptcy, insolvency or reorganization, or relief from creditors and/or debtors that endangers the Contractor's proper performance hereunder;

5. Appointment of any receiver, trustee, or similar official for Contractor or any of the Contractor's property and such appointment endangers the Contractor's proper performance hereunder;
6. A determination that the Contractor is in violation of federal, state, or local laws or regulations and that such determination renders the Contractor unable to perform any aspect of the Contract.

OPPORTUNITY TO CURE:

In the event that Contractor fails to perform a contractual requirement or materially breaches any term or condition, the Purchasing Activity may issue a written cure notice. The Contractor may have a period of time in which to cure. The Purchasing Activity is not required to allow the Contractor to cure defects if the opportunity for cure is not feasible as determined solely within the discretion of the Purchasing Activity. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages, or otherwise affects any other remedies available against Contractor under the Contract or by law.

If the breach remains after Contractor has been provided the opportunity to cure, the Purchasing Activity may do any one or more of the following:

1. Exercise any remedy provided by law;
2. Terminate this Contract and any related Contracts or portions thereof;
3. Procure replacements and impose damages as set forth elsewhere in this Contract;
4. Impose actual or liquidated damages;
5. Suspend or bar Contractor from receiving future Solicitations or other opportunities;
6. Require Contractor to reimburse the state for any loss or additional expense incurred as a result of default or failure to satisfactorily perform the terms of the Contract.

TERMINATION FOR CAUSE

In the event the Contract Administrator, in its sole discretion, determines that the Contractor has failed to comply with the conditions of this Contract in a timely manner or is in material breach, the Contract Administrator has the right to suspend or terminate this Contract, in part or in whole. The Contract Administrator shall notify the Contractor in writing of the need to take corrective action. If corrective action is not taken within thirty (30) calendar days or as otherwise specified by the Contract Administrator, or if such corrective action is deemed by the Contract Administrator to be insufficient, the Contract may be terminated. The Contract Administrator reserves the right to suspend all or part of the Contract, withhold further payments, or prohibit the Contractor from incurring additional obligations of funds during investigation of the alleged breach and pending corrective action by the Contractor or a decision by the Contract Administrator to terminate the Contract.

In the event of termination, the Purchasing Activity shall have the right to procure for all Purchasers any replacement materials, supplies, services and/or equipment that are the subject of this Contract on the open market. In addition, the Contractor shall be liable for damages as authorized by law including, but not limited to, any price difference between the original contract and the replacement or cover contract and all administrative costs directly related to the replacement contract, e.g., cost of the competitive bidding, mailing, advertising and staff time.

If it is determined that: (1) the Contractor was not in material breach; or (2) failure to perform was outside of Contractor's or its Subcontractor's control, fault or negligence, the termination shall be deemed to be a "Termination for Convenience". The rights and remedies of the Purchasing Activity and/or the Purchaser provided in this Contract are not exclusive and are in addition to any other rights and remedies provided by law.

TERMINATION FOR CONVENIENCE

Except as otherwise provided in this Contract, the Purchasing Activity, at the sole discretion of the Contract Administrator, may terminate this Contract, in whole or in part by giving thirty (30) written notice beginning on the second day after mailing to the Contractor. If this Contract is so terminated, Purchasers shall be liable only for payment required under this Contract for properly authorized services rendered, or materials, supplies and/or equipment delivered to and Accepted by the Purchaser prior to the effective date of Contract termination. Neither the Purchasing Activity nor the Purchaser shall have any other obligation whatsoever to the Contractor for such termination. This Termination for Convenience clause may be invoked by the Purchasing Activity when it is in the best interest of the State of Washington.

TERMINATION FOR WITHDRAWAL OF AUTHORITY

In the event that the Purchasing Activity and/or Purchaser's authority to perform any of its duties is withdrawn, reduced, or limited in any way after the commencement of this Contract and prior to normal completion, the Purchasing Activity may terminate this Contract, in whole or in part, by seven (7) written notice to Contractor.

TERMINATION FOR CONFLICT OF INTEREST

Purchasing Activity may terminate this Contract by written notice to Contractor if it is determined, after due notice and examination, that any party to this Contract has violated [Chapter 42.52 RCW](#), Ethics in Public Service, or any other laws regarding ethics in public acquisitions and procurement and performance of contracts. In the event this Contract is so terminated, the Purchasing Activity and /or Purchaser shall be entitled to pursue the same remedies against Contractor as it could pursue in the event that the Contractor breaches this Contract.

TERMINATION BY MUTUAL AGREEMENT

The Purchasing Activity and the Contractor may terminate this Contract in whole or in part, at any time, by mutual agreement.

TERMINATION PROCEDURE

In addition to the procedures set forth below, if the Purchasing Activity terminates this Contract, Contractor shall follow any procedures the Contract Administrator specifies in the termination notice.

Upon termination of this Contract and in addition to any other rights provided in this Contract, Contract Administrator may require the Contractor to deliver to the Purchaser any property specifically produced or acquired for the performance of such part of this contract as has been terminated. The provisions of the "Treatment of Assets" clause shall apply in such property transfer.

The Purchaser shall pay to the Contractor the agreed upon price, if separately stated, for completed work and service(s) Accepted by the Purchaser, and the amount agreed upon by the Contractor and the Purchaser for (i) completed materials, supplies, services rendered and/or equipment for which no separate price is stated, (ii) partially completed materials, supplies, services rendered and/or equipment, (iii) other materials, supplies, services rendered and/or equipment which are Accepted by the Purchaser, and (iv) the protection and preservation of property, unless the termination is for cause, in which case the Purchasing Activity and the Purchaser shall determine the extent of the liability of the Purchaser. Failure to agree with such determination shall be a dispute within the meaning of the "Disputes" clause of this contract. The Purchaser may withhold from any amounts due the Contractor such sum as the Contract Administrator and Purchaser determine to be necessary to protect the Purchaser against potential loss or liability.

The rights and remedies of the Purchasing Activity and/or the Purchaser provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

After receipt of a termination notice, and except as otherwise expressly directed in writing by the Contract Administrator, the Contractor shall:

1. Stop all work, order fulfillment, shipments, and deliveries under the Contract on the date, and to the extent specified, in the notice;
2. Place no further orders or subcontracts for materials, services, supplies, equipment and/or facilities in relation to the Contract except as is necessary to complete or fulfill such portion of the Contract that is not terminated;
3. Complete or fulfill such portion of the Contract that is not terminated in compliance with all contractual requirements;
4. Assign to the Purchaser, in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser, all of the rights, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case the Purchaser has the right, at its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Contract Administrator and/or the Purchaser to the extent Contract Administrator and/or the Purchaser may require, which approval or ratification shall be final for all the purposes of this clause;

6. Transfer title to the Purchaser and deliver in the manner, at the times, and to the extent directed by the Contract Administrator on behalf of the Purchaser any property which, if the contract had been completed, would have been required to be furnished to the Purchaser;
7. Take such action as may be necessary, or as the Contract Administrator and/or the Purchaser may direct, for the protection and preservation of the property related to this contract which is in the possession of the Contractor and in which the Purchasing Activity and/or the Purchaser has or may acquire an interest.

CONTRACT EXECUTION

LIENS, CLAIMS AND ENCUMBRANCES

All materials, equipment, supplies and/or services shall be free of all liens, claims, or encumbrances of any kind, and if the Purchasing Activity or the Purchaser requests, a formal release of same shall be delivered to the respective requestor.

AUTHORITY TO BIND

The signatories to this Contract represent that they have the authority to bind their respective organizations to this Contract.