

**RESOLUTION NO. 14 –16**

**A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA ADOPTING THE EXISTING AGREEMENT BETWEEN THE STATE OF FLORIDA AND GOODYEAR TIRE & RUBBER COMPANY WHICH WAS COMPETITIVELY ENTERED INTO IN A MANNER SIMILAR TO THAT SET FORTH IN CHAPTER 2, ARTICLE V, SECTION 2-322 OF THE CITY CODE, AND APPROVING CONTRACTS WITH DORAL TIRE & SERVICE CORP., AUTOMOTIVE CARE OF DORAL AND D SHOP TIRES & AUTO REPAIRS FOR THE PROVISION OF CITYWIDE VEHICLE TIRE REPLACEMENTS AND TIRE RELATED SERVICES IN AN AMOUNT NOT TO EXCEED \$75,000.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACTS AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the State of Florida and Goodyear Tire & Rubber Company have an existing contract for the for the purchase of Goodyear Tires and tire related services (the “Tire Services”), which was competitively entered into in a manner similar to that set forth in Chapter 2, Article V, of the City Code (the “State Contract”); and

**WHEREAS**, Doral Tire & Service Corp, Automotive Care of Doral and D Shop Tires & Auto Repairs Tire Services are parties to the State Contract; and

**WHEREAS**, pursuant to Section 2-322 of the City Code, the City of Doral desires to enter into agreements with Doral Tire & Service Corp, Automotive Care of Doral and D Shop Tires & Auto Repairs Tire Services for the Tire Services.

**NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL AS FOLLOWS:**

**Section 1. Recitals.** The above recitals are true and correct and incorporated herein.

**Section 2. Approval.** The contracts between the City and Doral Tire & Service Corp, Automotive Care of Doral and D Shop Tires & Auto Repairs Tire Services and Doral Tire & Service Corp, for the Tire Services in an amount not to exceed \$75,000.00, attached hereto as Composite Exhibit "A", which are based upon the State Contract attached hereto as Exhibit "B", that was competitively entered into in a manner similar to that set forth in Chapter 2, Article V, are hereby approved. The City Manager is authorized to execute the contracts and expend budgeted funds on behalf of the City.

**Section 3. Effective Date.** This Resolution shall take effect immediately upon adoption.

The foregoing resolution was offered by Councilmember Ruiz who moved its adoption. The motion was seconded by Councilmember Rodriguez Aguilera and upon being put to a vote, the vote was as follows:

Mayor Luigi Boria	Yes
Vice Mayor Christi Fraga	Yes
Councilwoman Ana Maria Rodriguez	Yes
Councilwoman Bettina Rodriguez Aguilera	Yes
Councilwoman Sandra Ruiz	Yes

PASSED and ADOPTED this 15th day of January, 2014.

  
\_\_\_\_\_  
LUIGI BORIA, MAYOR

ATTEST:

  
\_\_\_\_\_  
BARBARA HERRERA, CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY  
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:

  
\_\_\_\_\_  
JOHN R. HERIN, JR., CITY ATTORNEY

# EXHIBIT “A”

# EXHIBIT “B”



**AMENDMENT NO. 6**

To State Term Contract 863-000-10-1  
Tires

**This Amendment No. 6** (Amendment), is effective November 15, 2013, or the last date signed by both parties, to the Tires, No. 863-000-10-1, effective between the State of Florida, Department of Management Services (Department) and The Goodyear Tire and Rubber Company (Contractor). Department and Contractor are collectively referred to herein as the "Parties." All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

**WHEREAS** the Contract was originally entered on July 1, 2009 with the Contractor for the provision of tires, and is scheduled to expire on April 30, 2014; and

**WHEREAS** upon mutual agreement, the Customer and the Contractor agree to amend the section **7.1 Price Sheet and Ordering Instructions with a price decrease of the Wrangler AT Adventure size tires as authorized by sections 4.42 and 5.9;** and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

- 1.0 Contract Amendment.** Section 7.1 the price sheets for State Term Contract No. 863-000-10-1, are replaced with "State of Florida 5-1-2013 through 4-30-2014 (REV3)" (revised price sheets) effective November 15, 2013
- 2.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.
- 3.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida,  
Department of Management Services:

The Goodyear Tire and Rubber Company  
Company:

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

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

Name: Kelley J. Scott,\_\_\_\_\_

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

Director of State Purchasing

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

Title: and Chief Procurement Officer

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

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

**AMENDMENT NO. 5**  
To State Term Contract 863-000-10-1  
Tires

**This Amendment No. 5** (“Amendment”), is effective May 01, 2013, or the last date signed by both parties, to the Tires, No. 863-000-10-1, effective between the State of Florida, Department of Management Services (“Department” or “Customer”) and The Goodyear Tire and Rubber Company (“Contractor”). Department and Contractor are collectively referred to herein as the “Parties.” All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

**WHEREAS** the Contract was originally entered on July 01, 2009 with the Contractor for the provision of tires, and is scheduled to expire on April 30, 2013; and

**WHEREAS** upon mutual agreement, the Customer and the Contractor agree to amend the Contract, in accordance with section 4.26 Renewal and 5.2 **Period of Agreement**; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**4.0 Contract Amendment.** Pursuant to sections 4.26 and 5.2 of the State Term Contract, the State Term Contract No. 863-000-10-1 is renewed for a period of one year at the same terms and conditions, with a new contract expiration date of April 30, 2014.

**5.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**6.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida,  
Department of Management Services:

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

Name: Kelly Loll, C.P.M.

Chief Procurement Officer &

Title: Director of State Purchasing

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

The Goodyear Tire and Rubber Company:

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

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

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

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

**AMENDMENT NO. 4**  
To State Term Contract 863-000-10-1  
Tires

**This Amendment No. 4** (“Amendment”), is effective May 01, 2013, or the last date signed by both parties, to the Tires, No. 863-000-10-1, effective between the State of Florida, Department of Management Services (“Department” or “Customer”) and The Goodyear Tire and Rubber Company (“Contractor”). Department and Contractor are collectively referred to herein as the “Parties.” All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

**WHEREAS** the Contract was originally entered on July 01, 2009 with the Contractor for the provision of tires, and is scheduled to expire on April 30, 2013; and

**WHEREAS** upon mutual agreement, the Customer and the Contractor agree to amend the Contract, in accordance with section **4.42 Modification of Terms**; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following:

**7.0 Contract Amendment.** Pursuant to sections 4.42 of the State Term Contract, the State Term Contract No. 863-000-10-1, the current price sheets are replaced with Exhibit A (revised price sheets) effective May 1, 2013

**8.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**9.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida,  
Department of Management Services:  
By: \_\_\_\_\_

Name: Kelly Loll, C.P.M.

Chief Procurement Officer &  
Title: Director of State Purchasing

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

The Goodyear Tire and Rubber Company:

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

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

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

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



**AMENDMENT NO. 3**  
To State Term Contract 863-000-10-1  
Tires

**This Amendment No. 3** (“Amendment”), effective as of May 1, 2012, to the Tires, State Term Contract No. 863-000-10-1 (“Contract”) effective as of July 1, 2009, between the State of Florida, Department of Management Services (“Department” or “Customer”) and The Goodyear Tire and Rubber Company (“Contractor”). Department and Contractor are collectively referred to herein as the “Parties.” All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Department awarded the above referenced Contract to The Goodyear Tire and Rubber Company for the provisions of Tires; and

**WHEREAS** the Parties agree to amend the contract as provided in section 4.42 of State Term Contract No. 863-000-10-1; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following;

**1.0 Contract Amendment.** Pursuant to sections 4.26 and 5.2 of the State Term Contract, the State Term Contract No. 863-000-10-1 is renewed for a period of one year at the same terms and conditions, with a new contract expiration date of April 30, 2013. Current price sheets are replaced with Exhibit A (revised price sheets) effective May 1, 2012

**2.0 Reporting Requirements.** Section 5.14, of Contract No. 863-000-10-1, is superseded and entirely replaced with the following:

**5.14 Sales Summary and Transaction Fee Reports.**

Each Contractor shall submit a sales report on a Quarterly basis. Reporting periods coincide with the State Fiscal Year:

- Quarter 1- (July-September)
- Quarter 2 - (October-December)
- Quarter 3 - (January-March)
- Quarter 4 - (April-June)

Each Quarterly Sales Report must be in Excel format and shall include:

- Contractor’s Name and contact information as required on the Department of Management Services “Contract Quarterly Report”
- Detail of time period covered by included data
- Total sales including detail of list price and contract price
- Transaction detail shall include the following:

<b>Part Number/SKU</b>	Your product part number if applicable
<b>Item / Service Name</b>	Given name of Item or Service
<b>MFG</b>	Manufacturer, Publisher, Service Provider
<b>Item Category</b>	Description of the product category, according to attached table
<b>Item Subcategory</b>	Additional grouping for item
<b>Product Description</b>	Additional detail for item
<b>Customer Name</b>	State Agencies, Universities, Political Subdivisions, Other Eligible Users
<b>NIGP Code</b>	National Institute of Government Procurement code

<b>Florida Commodity Code</b>	Florida Commodity Code
<b>UOM</b>	Unit of Measure
<b>UOM Description</b>	Description of unit of measure (see example)
<b>Volume Qty</b>	Number of items/services purchased/provided
<b>Order Date</b>	Order date
<b>Date Delivered</b>	Delivered date to customer
<b>Purchase Type</b>	Purchase Order, Payment Card, Other
<b>List Price</b>	List price (Market + fee contracts use market price)
<b>Contract Price</b>	Contracted price with state per contract terms
<b>Additional Fields</b>	Any new information related to your company's products/services

Failure to provide quarterly and annual sales reports, including no sales, within thirty (30) calendar days following the end of each quarter (January, April, July and October) and/or contract year may result in the contract supplier being found in default and cancellation of the contract by the Department. Upon request, the Contractor shall report to the Department, spend with certified and other minority business enterprises. Reports must include the period covered, the name, minority code and Federal Employer Identification Number of each minority vendor utilized during the period, commodities and services provided by the minority business enterprise, and the amount paid to each minority vendor on behalf of each purchasing agency ordering under the terms of this contract. Initiation and submission of the Contract Sales Summaries are to be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Manager.

Additionally, each Contractor is required to submit monthly Transaction Fee Reports in electronic format. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and Vendor training presentations available online at the Transaction Fee Reporting and Vendor Training subsections under Vendors on the MyFloridaMarketPlace website (located at <http://dms.myflorida.com/mfmp>). Assistance is also available with the Transaction Fee Reporting System from the MyFloridaMarketPlace Customer Service Desk at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com) or 866-FLA-EPRO (866-352-3776) between the hours of 8:00 AM to 5:30 PM Eastern Time.

**3.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**4.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**5.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

**6.0 Electronic Invoicing.** The Contractor shall supply electronic invoices in lieu of paper-based invoices for those transactions processed through the MFMP. Contractor agrees, upon DMS' request, to establish electronic invoicing within ninety (90) days of written request.

Electronic invoices shall be submitted to the agency through the Ariba Supplier Network (ASN) in one of three mechanisms as listed below. Suppliers can select the method that best meets their capabilities from the following list:

- **cXML (commerce eXtensible Markup Language)**  
This standard establishes the data contents required for invoicing via cXML within the context of an electronic environment. This transaction set can be used for invoicing via the ASN for catalog

and non-catalog goods and services. *The cXML format is the Ariba preferred method for eInvoicing.*

- **EDI (Electronic Data Interchange)**

This standard establishes the data contents of the Invoice Transaction Set (810) for use within the context of an Electronic Data Interchange (EDI) environment. This transaction set can be used for invoicing via the ASN for catalog and non-catalog goods and services.

- **PO Flip via ASN**

The online process allows suppliers to submit invoices via the ASN for catalog and non-catalog goods and services. Suppliers have the ability to create an invoice directly from their Inbox in their ASN account by simply “flipping” the PO into an invoice. This option does not require any special software or technical capabilities.

For the purposes of this section, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider of MFMP, a State Contractor, the right and license to use, reproduce, transmit, distribute, and publicly display within the system the information outlined above. In addition, the Contractor warrants and represents that it is authorized and empowered to and hereby grants the State and the third party provider the right and license to reproduce and display within the system the Contractor’s trademarks, system marks, logos, trade dress, or other branding designation that identifies the products made available by the Contractor under the Contract.

The Contractor will work with the MFMP management team to obtain specific requirements for Electronic Invoicing upon Department request.

**State of Florida,  
Department of Management Services:**

**The Goodyear Tire and Rubber Company:**

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

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

Name: Kelly Loll, C.P.M.

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

Chief Procurement Officer &

Title: Director of State Purchasing

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

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

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

*Approved as to form and legality*

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

\_\_\_\_\_

*Office of the General Counsel*

*Date*

*Department of Management Service*



RICK SCOTT  
Governor

DEPARTMENT OF MANAGEMENT  
**SERVICES**

SCOTT STEWART  
Interim Secretary

## **CERTIFICATION OF CONTRACT**

TITLE: Tires

CONTRACT NO.: 863-000-10-1

ITB NO.: 18-863-000-S

EFFECTIVE: July 1, 2009 through February 29, 2012

1<sup>st</sup> RENEWAL: March 1, 2012 through March 31, 2012

2<sup>nd</sup> RENEWAL: April 1, 2012 through April 30, 2012

3<sup>rd</sup> RENEWAL: May 1, 2012 through April 30, 2013

(REV. April 24, 2012)

CONTRACTOR(S):

The Goodyear Tire & Rubber Company (A)

- 
- A. **AUTHORITY** – Upon affirmative action taken by the State of Florida Department of Management Services, a contract has been executed between the State of Florida and the designated contractor(s).
- B. **EFFECT** – This contract was entered into to provide economies in the purchase of Tires by all State of Florida agencies and institutions. Therefore, in compliance with Section 287.042, Florida Statutes, all purchases of these commodities shall be made under the requirements, prices, discounts, terms, and conditions of this contract and with the contractor(s) specified.
- C. **ORDERING INSTRUCTIONS** – All purchase orders shall be issued in accordance with the attached ordering instructions. Purchaser shall order at the prices indicated, exclusive of all Federal, State, and local taxes.

All contract purchase orders shall show the State Purchasing contract number, product number, quantity, description of item, with unit prices extended and purchase order totaled. (This requirement may be waived when purchase is made by a blanket purchase order.)

- D. **CONTRACTOR PERFORMANCE** – Agencies shall report any vendor failure to perform according to the requirements of this contract on Complaint to Vendor, form PUR7017. Should the vendor fail to correct the problem within a prescribed period of time, then form PUR7029, Request for Assistance, is to be filed with this office.



DEPARTMENT OF MANAGEMENT  
**SERVICES**

RICK SCOTT  
Governor

SCOTT STEWART  
Interim Secretary

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- E. SPECIAL AND GENERAL CONDITIONS – Special and general conditions are enclosed for your information. Any restrictions accepted from the supplier are noted on the ordering instructions.

\_\_\_\_\_  
Authorized Signature (date)

DSP/ml

Attachment

**AMENDMENT NO. 2**  
To State Term Contract 863-000-10-1  
Tires

**This Amendment No. 2** (“Amendment”), effective as of April 1, 2012, to the Tires, State Term Contract No. 863-000-10-1 (“Contract”) effective as of July 1, 2009, between the State of Florida, Department of Management Services (“Department” or “Customer”) and The Goodyear Tire and Rubber Company (“Contractor”). Department and Contractor are collectively referred to herein as the “Parties.” All capitalized terms used herein shall have the meaning assigned to them in the Contract, unless otherwise defined herein.

**WHEREAS** the Department awarded the above referenced Contract to The Goodyear Tire and Rubber Company for the provisions of Tires; and

**WHEREAS** the Parties agree to amend the contract as provided in section 4.42 of State Term Contract No. 863-000-10-1; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following;

**7.0 Contract Amendment.** Pursuant to sections 4.26 and 5.2 of the State Term Contract, the State Term Contract 863-000-10-1 is renewed for a period of one month at the same terms, prices and conditions, with a new contract expiration date of April 30, 2012.

**8.0 Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.

**9.0 Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.

**10.0 Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

State of Florida,  
Department of Management Services:

The Goodyear Tire and Rubber Company:

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

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

Name: Kelly Loll, C.P.M.  
Chief Procurement Officer &  
Title: Director of State Purchasing

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

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

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

*Approved as to form and legality*

By: \_\_\_\_\_  
*Office of the General Counsel*  
*Department of Management Services*

\_\_\_\_\_  
*Date*

**AMENDMENT NO. 1**  
To State Term Contract 863-000-10-1  
Tires

**This Amendment No.1** (“Amendment”), effective as of March 1, 2012, or on the last date on which it is signed by all parties, whichever is later, to the Tires, Contract No. 863-000-10-1 (“Contract”) effective as of July 1, 2009, between the State of Florida, Department of Management Services (“Department” or “Customer”) and The Goodyear Tire and Rubber Company (“Contractor”). Department and Contractor are collectively referred to herein as the “Parties.” All capitalized terms used herein shall have the meaning assigned to them in the Agreement, unless otherwise defined herein.

**WHEREAS** the Department awarded the above referenced Contract to The Goodyear Tire and Rubber Company for the provisions of Tires; and

**WHEREAS** the Parties agree to amend the contract as provided in section 4.42 of State Term Contract No. 863-000-10-1; and

**THEREFORE**, in consideration of the mutual promises contained below, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, the Parties agree to the following;

- 11.0**        **Contract Amendment.** Pursuant to Section 4.26 of the State Term Contract, the State Term Contract 863-000-10-1 is hereby renewed for a period of one month at the same terms, prices and conditions, with a new contract expiration date of April 1, 2012.
- 12.0**        **Employment Verification.** Pursuant to State of Florida Executive Orders Numbers: 11-02 and 11-116, Contractor is required to utilize the U.S. Department of Homeland Security’s E-Verify system to verify the employment of all new employees hired by the Contractor during the contract term. Also, Contractor shall include in related subcontracts a requirement that subcontractors performing work or providing services pursuant to the state contract utilize the E-Verify system to verify employment of all new employees hired by the subcontractor during the contract term.
- 13.0**        **Scrutinized Company List.** In executing this contract, Contractor certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, created pursuant to section 215.473, Florida Statutes. Pursuant to section 287.135(5), F.S., Contractor agrees the Department may immediately terminate this contract for cause if the Contractor is found to have submitted a false certification or if Contractor is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List during the term of the contract.
- 14.0**        **Preferred Pricing.** The Contractor agrees to submit to Customer at least annually an affidavit from an authorized representative attesting that the contractor is in compliance with the preferred pricing provision in Section 4(b) of form PUR 1000.
- 15.0**        **Conflict.** To the extent any of the terms of this Amendment conflict with the terms of the Contract, the terms of this Amendment shall control.
- 16.0**        **Warrant of Authority.** Each person signing this Amendment warrants that he or she is duly authorized to do so and to bind the respective party.
- 17.0**        **Effect.** Unless otherwise modified by this Amendment, all terms and conditions contained in the Contract shall continue in full force and effect.

**State of Florida,  
Department of Management Services:**

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

**Name:** Kelly Loll, C.P.M.  
**Chief Procurement Officer &**

**Title:** Director of State Purchasing

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

**The Goodyear Tire and Rubber Company:**

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

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

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

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

*Approved as to form and legality*

**By:** \_\_\_\_\_  
*Office of the General Counsel*



## **CERTIFICATION OF CONTRACT**

TITLE: Tires

CONTRACT NO.: 863-000-10-1

ITB NO.: 18-863-000-S

EFFECTIVE: July 1, 2009 through February 29, 2012

1<sup>st</sup> RENEWAL: March 1, 2012 through April 1, 2012

(REV. January 5, 2012)

CONTRACTOR(S):

The Goodyear Tire & Rubber Company (A)

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- F. AUTHORITY – Upon affirmative action taken by the State of Florida Department of Management Services, a contract has been executed between the State of Florida and the designated contractor(s).
- G. EFFECT – This contract was entered into to provide economies in the purchase of Tires by all State of Florida agencies and institutions. Therefore, in compliance with Section 287.042, Florida Statutes, all purchases of these commodities shall be made under the requirements, prices, discounts, terms, and conditions of this contract and with the contractor(s) specified.
- H. ORDERING INSTRUCTIONS – All purchase orders shall be issued in accordance with the attached ordering instructions. Purchaser shall order at the prices indicated, exclusive of all Federal, State, and local taxes.
- All contract purchase orders shall show the State Purchasing contract number, product number, quantity, description of item, with unit prices extended and purchase order totaled. (This requirement may be waived when purchase is made by a blanket purchase order.)
- I. CONTRACTOR PERFORMANCE – Agencies shall report any vendor failure to perform according to the requirements of this contract on Complaint to Vendor, form PUR7017. Should the vendor fail to correct the problem within a prescribed period of time, then form PUR7029, Request for Assistance, is to be filed with this office.
- J. SPECIAL AND GENERAL CONDITIONS – Special and general conditions are enclosed for your information. Any restrictions accepted from the supplier are noted on the ordering instructions.

\_\_\_\_\_  
Authorized Signature (date)

DSP/cw

Attachments

### **CONTRACT MANAGER**

NAME: MARK LOVELL

TELEPHONE: 850-487-2304

E-MAIL: [Mark.Lovell@dms.MyFlorida.com](mailto:Mark.Lovell@dms.MyFlorida.com)

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**SECTION 1.0**  
**INTRODUCTION**

**CONTENTS:**

- 1.1 PURPOSE AND SCOPE**
- 1.2 TIMELINE**

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## 1.1 Purpose and Scope

The State of Florida ("State"), Department of Management Services ("Department"), invites interested Vendors, including Tire Manufacturers, to submit Responses in accordance with these solicitation documents. The purpose of the solicitation is to establish a State Term Contract for the acquisition of Tires and Optional Related Services with potential options for renewals as allowed by Chapter 287, Florida Statutes.

The intent of the solicitation is to obtain the most cost effective Tires and Optional Related Services for the State of Florida while maximizing availability, quality, and level of service. Qualified Vendors must have the capability to provide Tires in all respects in accordance with the solicitation documents and to the satisfaction of the Department.

The State Term Contract period, if awarded, is anticipated to begin on the Contract Formation date, per Section 2.17, and to end February 29, 2012, with potential options to renew per Chapter 287, Florida Statutes.

## 1.2 Timeline

Event	Event Date
Issue Solicitation within MyFloridaMarketPlace Sourcing Tool (Provide Notice within Vendor Bid System).	June 09, 2009
Questions from Vendors Due via Q&A Board within MyFloridaMarketPlace Sourcing Tool (No later than 2:00 pm ET).	June 15, 2009
Post Answers to Vendor Questions within MyFloridaMarketPlace Sourcing Tool and Vendor Bid System.	June 17, 2009
Solicitation Responses Due within MyFloridaMarketPlace Sourcing Tool (Some Required Documents via Mail) (No later than 4:00 pm ET).	June 23, 2009
Post Notice of Intended Award within Vendor Bid System (Per Section 2.13, Electronic Posting of Notice of Intended Award).	June 25, 2009
Contract Award.	Per Section 2.17, Contract Formation

**DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.2, TIMELINE.** The response deadline(s) shall be as reflected in Section 1.2, Timeline, of this solicitation. The MyFloridaMarketPlace Sourcing Tool's time remaining clock is not the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

**It is strongly recommended to submit your Response as early as possible. You should allow time to receive any requested assistance and to receive verification of your submittal; waiting until the last hours of the solicitation could impact the timely submittal of your Response.**

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**SECTION 2.0**  
**GENERAL INSTRUCTIONS TO RESPONDENTS [PUR1001 (10/06)]**

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- 2.2 GENERAL INSTRUCTIONS.**
- 2.3 ELECTRONIC SUBMISSION OF RESPONSES.**
- 2.4 TERMS AND CONDITIONS.**
- 2.5 QUESTIONS.**
- 2.6 CONFLICT OF INTEREST.**
- 2.7 CONVICTED VENDORS.**
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**2.1 Definitions.** The definitions found in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

- (a) "Buyer" means the entity that has released the solicitation. The "Buyer" may also be the "Customer" as defined in the PUR 1000 if that entity meets the definition of both terms.
- (b) "Procurement Officer" means the Buyer's contracting personnel, as identified in the Introductory Materials.
- (c) "Respondent" means the entity that submits materials to the Buyer in accordance with these Instructions.
- (d) "Response" means the material submitted by the respondent in answering the solicitation.
- (e) "Timeline" means the list of critical dates and actions included in the Introductory Materials.

**2.2 General Instructions.** Potential respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare responses accordingly.

**2.3 Electronic Submission of Responses.** Respondents are required to submit responses electronically. For this purpose, all references herein to signatures, signing requirements, or other required acknowledgments hereby include electronic signature by means of clicking the "Submit Response" button (or other similar symbol or process) attached to or logically associated with the response created by the respondent within MyFloridaMarketPlace. The respondent agrees that the action of electronically submitting its response constitutes:

- an electronic signature on the response, generally,
- an electronic signature on any form or section specifically calling for a signature, and
- an affirmative agreement to any statement contained in the solicitation that requires a definite confirmation or acknowledgement.

**2.4 Terms and Conditions.** All responses are subject to the terms of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Technical Specifications,
- Special Conditions and Instructions,
- Instructions to Respondents (PUR 1001),
- General Conditions (PUR 1000), and
- Introductory Materials.

The Buyer objects to and shall not consider any additional terms or conditions submitted by a respondent, including any appearing in documents attached as part of a respondent's response. In submitting its response, a respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with terms and conditions, including those specifying information that must be submitted with a response, shall be grounds for rejecting a response.

**2.5 Questions.** Respondents shall address all questions regarding this solicitation to the Procurement Officer. Questions must be submitted via the Q&A Board within MyFloridaMarketPlace and must be RECEIVED NO LATER THAN the time and date reflected on the Timeline. Questions shall be answered in accordance with the Timeline. All questions submitted shall be published and answered in a manner that all respondents will be able to view. Respondents shall not contact any other employee of the Buyer or the State for information with respect to this solicitation. Each respondent is responsible for monitoring the MyFloridaMarketPlace site for new or changing information. The Buyer shall not be bound by any verbal information or by any written information that is not contained within the solicitation documents or formally noticed and issued by the Buyer's contracting personnel. Questions to the Procurement Officer or to any Buyer personnel shall not constitute formal protest of the specifications or of the solicitation, a process addressed in paragraph 19 of these Instructions.

**2.6 Conflict of Interest.** This solicitation is subject to chapter 112 of the Florida Statutes. Respondents shall disclose with their response the name of any officer, director, employee or other agent who is also an

employee of the State. Respondents shall also disclose the name of any State employee who owns, directly or indirectly, an interest of five percent (5%) or more in the respondent or its affiliates.

**2.7 Convicted Vendors.** A person or affiliate placed on the convicted vendor list following a conviction for a public entity crime is prohibited from doing any of the following for a period of 36 months from the date of being placed on the convicted vendor list:

- submitting a bid on a contract to provide any goods or services to a public entity;
- submitting a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submitting bids on leases of real property to a public entity;
- being awarded or performing work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and
- transacting business with any public entity in excess of the Category Two threshold amount (\$25,000) provided in section 287.017 of the Florida Statutes.

**2.8 Discriminatory Vendors.** An entity or affiliate placed on the discriminatory vendor list pursuant to section 287.134 of the Florida Statutes may not:

- submit a bid on a contract to provide any goods or services to a public entity;
- submit a bid on a contract with a public entity for the construction or repair of a public building or public work;
- submit bids on leases of real property to a public entity;
- be awarded or perform work as a contractor, supplier, sub-contractor, or consultant under a contract with any public entity; or
- transact business with any public entity.

**2.9 Respondent's Representation and Authorization.** In submitting a response, each respondent understands, represents, and acknowledges the following (if the respondent cannot so certify to any of following, the respondent shall submit with its response a written explanation of why it cannot do so).

- The respondent is not currently under suspension or debarment by the State or any other governmental authority.
- To the best of the knowledge of the person signing the response, the respondent, its affiliates, subsidiaries, directors, officers, and employees are not currently under investigation by any governmental authority and have not in the last ten (10) years been convicted or found liable for any act prohibited by law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract.
- Respondent currently has no delinquent obligations to the State, including a claim by the State for liquidated damages under any other contract.
- The submission is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive response.
- The prices and amounts have been arrived at independently and without consultation, communication, or agreement with any other respondent or potential respondent; neither the prices nor amounts, actual or approximate, have been disclosed to any respondent or potential respondent, and they will not be disclosed before the solicitation opening.
- The respondent has fully informed the Buyer in writing of all convictions of the firm, its affiliates (as defined in section 287.133(1)(a) of the Florida Statutes), and all directors, officers, and employees of the firm and its affiliates for violation of state or federal antitrust laws with respect to a public contract for violation of any state or federal law involving fraud, bribery, collusion, conspiracy or material misrepresentation with respect to a public contract. This includes disclosure of the names of current employees who were convicted of contract crimes while in the employ of another company.



- Neither the respondent nor any person associated with it in the capacity of owner, partner, director, officer, principal, investigator, project director, manager, auditor, or position involving the administration of federal funds:
  - Has within the preceding three years been convicted of or had a civil judgment rendered against them or is presently indicted for or otherwise criminally or civilly charged for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state, or local government transaction or public contract; violation of federal or state antitrust statutes; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; or
  - Has within a three-year period preceding this certification had one or more federal, state, or local government contracts terminated for cause or default.
- The product offered by the respondent will conform to the specifications without exception.
- The respondent has read and understands the Contract terms and conditions, and the submission is made in conformance with those terms and conditions.
- If an award is made to the respondent, the respondent agrees that it intends to be legally bound to the Contract that is formed with the State.
- The respondent has made a diligent inquiry of its employees and agents responsible for preparing, approving, or submitting the response, and has been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in the response.
- The respondent shall indemnify, defend, and hold harmless the Buyer and its employees against any cost, damage, or expense which may be incurred or be caused by any error in the respondent's preparation of its bid.
- All information provided by, and representations made by, the respondent are material and important and will be relied upon by the Buyer in awarding the Contract. Any misstatement shall be treated as fraudulent concealment from the Buyer of the true facts relating to submission of the bid. A misrepresentation shall be punishable under law, including, but not limited to, Chapter 817 of the Florida Statutes.

**2.10 Manufacturer's Name and Approved Equivalents.** Unless otherwise specified, any manufacturers' names, trade names, brand names, information or catalog numbers listed in a specification are descriptive, not restrictive. With the Buyer's prior approval, the Contractor may provide any product that meets or exceeds the applicable specifications. The Contractor shall demonstrate comparability, including appropriate catalog materials, literature, specifications, test data, etc. The Buyer shall determine in its sole discretion whether a product is acceptable as an equivalent.

**2.11 Performance Qualifications.** The Buyer reserves the right to investigate or inspect at any time whether the product, qualifications, or facilities offered by Respondent meet the Contract requirements. Respondent shall at all times during the Contract term remain responsive and responsible. In determining Respondent's responsibility as a vendor, the agency shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Respondent's capability to fully satisfy the requirements of the solicitation and the contract.

Respondent must be prepared, if requested by the Buyer, to present evidence of experience, ability, and financial standing, as well as a statement as to plant, machinery, and capacity of the respondent for the production, distribution, and servicing of the product bid. If the Buyer determines that the conditions of the solicitation documents are not complied with, or that the product proposed to be furnished does not meet the specified requirements, or that the qualifications, financial standing, or facilities are not satisfactory, or that performance is untimely, the Buyer may reject the response or terminate the Contract. Respondent may be disqualified from receiving awards if respondent, or anyone in respondent's employment, has previously failed to perform satisfactorily in connection with public bidding or contracts. This paragraph shall not mean or imply

that it is obligatory upon the Buyer to make an investigation either before or after award of the Contract, but should the Buyer elect to do so, respondent is not relieved from fulfilling all Contract requirements.

**2.12 Public Opening.** Responses shall be opened on the date and at the location indicated on the Timeline. Respondents may, but are not required to, attend. The Buyer may choose not to announce prices or release other materials pursuant to s. 119.071(1)(b), Florida Statutes. Any person requiring a special accommodation because of a disability should contact the Procurement Officer at least five (5) workdays prior to the solicitation opening. If you are hearing or speech impaired, please contact the Buyer by using the Florida Relay Service at (800) 955-8771 (TDD).

**2.13 Electronic Posting of Notice of Intended Award.** Based on the evaluation, on the date indicated on the Timeline the Buyer shall electronically post a notice of intended award at [http://fcg.state.fl.us/owa\\_vbs/owa/vbs\\_main\\_menu](http://fcg.state.fl.us/owa_vbs/owa/vbs_main_menu). If the notice of award is delayed, in lieu of posting the notice of intended award the Buyer shall post a notice of the delay and a revised date for posting the notice of intended award. Any person who is adversely affected by the decision shall file with the Buyer a notice of protest within 72 hours after the electronic posting. The Buyer shall not provide tabulations or notices of award by telephone.

**2.14 Firm Response.** The Buyer may make an award within sixty (60) days after the date of the opening, during which period responses shall remain firm and shall not be withdrawn. If award is not made within sixty (60) days, the response shall remain firm until either the Buyer awards the Contract or the Buyer receives from the respondent written notice that the response is withdrawn. Any response that expresses a shorter duration may, in the Buyer's sole discretion, be accepted or rejected.

**2.15 Clarifications/Revisions.** Before award, the Buyer reserves the right to seek clarifications or request any information deemed necessary for proper evaluation of submissions from all respondents deemed eligible for Contract award. Failure to provide requested information may result in rejection of the response.

**2.16 Minor Irregularities/Right to Reject.** The Buyer reserves the right to accept or reject any and all bids, or separable portions thereof, and to waive any minor irregularity, technicality, or omission if the Buyer determines that doing so will serve the State's best interests. The Buyer may reject any response not submitted in the manner specified by the solicitation documents.

**2.17 Contract Formation.** The Buyer shall issue a notice of award, if any, to successful respondent(s), however, no contract shall be formed between respondent and the Buyer until the Buyer signs the Contract. The Buyer shall not be liable for any costs incurred by a respondent in preparing or producing its response or for any work performed before the Contract is effective.

**2.18 Contract Overlap.** Respondents shall identify any products covered by this solicitation that they are currently authorized to furnish under any state term contract. By entering into the Contract, a Contractor authorizes the Buyer to eliminate duplication between agreements in the manner the Buyer deems to be in its best interest.

**2.19 Public Records.** Article 1, section 24, Florida Constitution, guarantees every person access to all public records, and Section 119.011, Florida Statutes, provides a broad definition of public record. As such, all responses to a competitive solicitation are public records unless exempt by law. Any respondent claiming that its response contains information that is exempt from the public records law shall clearly segregate and mark that information and provide the specific statutory citation for such exemption.

**2.20 Protests.** Any protest concerning this solicitation shall be made in accordance with sections 120.57(3) and 287.042(2) of the Florida Statutes and chapter 28-110 of the Florida Administrative Code. Questions to the Procurement Officer shall not constitute formal notice of a protest. It is the Buyer's intent to ensure that

specifications are written to obtain the best value for the State and that specifications are written to ensure competitiveness, fairness, necessity and reasonableness in the solicitation process.

Section 120.57(3)(b), F.S. and Section 28-110.003, Fla. Admin. Code require that a notice of protest of the solicitation documents shall be made within seventy-two hours after the posting of the solicitation.

Section 120.57(3)(a), F.S. requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

Section 28-110.005, Fla. Admin. Code requires the following statement to be included in the solicitation: "Failure to file a protest within the time prescribed in Section 120.57(3), Florida Statutes, or failure to post the bond or other security required by law within the time allowed for filing a bond shall constitute a waiver of proceedings under Chapter 120, Florida Statutes."

**2.21 Limitation on Vendor Contact with Agency During Solicitation Period.** Respondents to this solicitation or persons acting on their behalf may not contact, between the release of the solicitation and the end of the 72-hour period following the agency posting the notice of intended award, excluding Saturdays, Sundays, and state holidays, any employee or officer of the executive or legislative branch concerning any aspect of this solicitation, except in writing to the procurement officer or as provided in the solicitation documents. Violation of this provision may be grounds for rejecting a response.

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**SECTION 3.0**  
**SPECIAL INSTRUCTIONS TO RESPONDENTS**

**CONTENTS:**

- 3.1 CONTACT PERSON**
- 3.2 TERMS AND CONDITIONS**
- 3.3 DEFINITIONS**
- 3.4 WHO MAY RESPOND**
- 3.5 MYFLORIDAMARKETPLACE SOLICITATION OVERVIEW**
- 3.6 AMENDMENTS OR ADDENDUMS TO THE SOLICITATION DOCUMENTS**
- 3.7 ESTIMATED QUANTITIES**
- 3.8 SUBMITTAL OF RESPONSE**
- 3.9 EVALUATION CRITERIA**
- 3.10 BASIS FOR AWARD**
- 3.11 STATE OBJECTIVES**
- 3.12 LOBBYING**

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### 3.1 Contact Person

Refer ALL Inquiries to:

Christopher Walker, FCCM  
Purchasing Analyst  
Division of State Purchasing  
Department of Management Services  
4050 Esplanade Way, Suite 360  
Tallahassee, FL 32399-0950  
(850)488-7540 (voice)  
(850)414-6122 (facsimile)  
[christopher.walker@dms.myflorida.com](mailto:christopher.walker@dms.myflorida.com)

Please Note: All solicitation related Questions must be submitted through the MyFloridaMarketPlace Sourcing Tool Q&A Board per Section 2.5; MyFloridaMarketPlace System questions may be answered in the solicitation document, Section 3.5. Any additional technical questions related to the MyFloridaMarketPlace system can be directed to the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).

### 3.2 Terms and Conditions

Potential Respondents to the solicitation are encouraged to carefully review all the materials contained herein and prepare Responses accordingly.

All Responses are subject to the requirements, specifications, terms, and conditions of the following sections of this solicitation, which, in case of conflict, shall have the order of precedence listed:

- Section 1.0, Introduction
- Section 6.0, Technical Specifications
- Section 5.0, Special Conditions
- Section 3.0, Special Instructions to Respondents
- Section 4.0, General Contract Conditions [PUR 1000 (10/06)]
- Section 2.0, General Instructions to Respondents [PUR 1001 (10/06)]
- Section 7.0, Price Sheet & Ordering Instructions and Forms

The Department objects to and shall not consider any additional terms or conditions submitted by a Respondent, including any appearing in documents attached as part of a Respondent's Response. In submitting its Response, the Respondent agrees that any additional terms or conditions, whether submitted intentionally or inadvertently, shall have no force or effect. Failure to comply with the solicitation requirements, specifications, terms, and conditions, including those specifying information that must be submitted with a Response, shall be grounds for rejecting a Response.

This Section, 3.2, supersedes and replaces Section 2.4, Terms and Conditions.

### 3.3 Definitions

The Definitions found and referenced in the General Instructions to Respondents [PUR1001 (10/06)], Section 2.1, and General Contract Conditions [PUR1000 (10/06)], Section 4.1, shall apply to this Section. The following additional terms are also defined:

- (a) "State" means the State of Florida.

- (b) "Department" means the Florida Department of Management Services.
- (c) "Procurement Officer", "Contract Manager", or "Contract Administrator" means the Buyer's contracting personnel, as identified in Section 3.1 or as amended by the Department.
- (d) "Eligible User(s)" is defined in 60A-1.005, F.A.C. The following entities are eligible users:
  1. All governmental agencies, as defined in Section 163.3164, F.S., which have a physical presence within the State of Florida;
  2. Any independent, non-profit college or university that is located within the State of Florida and is accredited by the Southern Association of Colleges and Schools. *Specific Authority 287.042 (12) F.S. Law Implemented 287.012 (12) F.S. History – New 8-24-04.*

Section 287.056 of the Florida Statutes governs agencies' use of the Contract. Others may seek Department approval under section 287.042(2)(a) as an eligible user of the Contract.

- (e) "Vendor(s)" means the entity that believes itself capable and is in the business of providing a Commodity and / or service similar to those within the solicitation, and may or may not respond to the solicitation.
- (f) "Contractor(s)" means the Respondent that has been awarded and contracts to sell Commodities and contractual services, which meet the requirements, specifications, terms, and conditions herein, to Eligible Users.
- (g) "OEM(s)" or "Manufacturer(s)" means the Original Equipment Manufacturer or original producer or provider of a Commodity and / or service.
- (h) "Dealer(s)" means a Manufacturer's certified representative authorized by the Manufacturer to market, sell, provide, and / or service specific Commodities and / or services of the Manufacturer. Dealers may be Contractor owned and / or controlled, in whole or in part, or independently owned and controlled.
- (i) "Authorized Dealer(s)" means a Dealer who is authorized under the requirements, specifications, terms, and conditions of the Contract, if awarded, to market, sell, provide, and / or service specific Commodities and contractual services of the Contract, if awarded. Authorized Dealers may be Contractor owned and / or controlled, in whole or in part, or independently owned and controlled.
- (j) "Commodity(ies)" means a tangible good, which may or may not meet the specifications herein.
- (k) "Commodity Code(s)" means the State of Florida specified numeric code for classifying Commodities and contractual services which meet specific requirements, specifications, terms, and conditions herein.
- (l) "Government Book Price(s)" represents the Manufacturer's pre-determined selling price, list price, published price, or other usual and customary price that would be paid by non-contracted government entities for specific Commodities and contractual services without benefit of a Contract resulting from the solicitation, if awarded. It must be formally published, in widespread distribution to various government entities nationwide, and verifiable by the Department. It may not be custom or solely developed, created, maintained, or utilized for purposes of the solicitation and resulting Contract, if awarded.

“GBPL(s)” is an acronym for the Government Book Price List, a collection of Government Book Prices and related information.

In the event a Vendor does not create, maintain, or utilize Government Book Price for specific Commodities and contractual services, that Vendor may use their MSRP in lieu of Government Book Price for the specific Commodities and contractual services. The Vendor must use Government Book Price or MSRP, shall not use both, and shall remain consistent in use through the solicitation and resulting Contract, if awarded.

- (m) “MSRP(s)” is an acronym for the Manufacturer’s Suggested Retail Price. It represents the Manufacturer’s recommended retail selling price, list price, published price, or other usual and customary price that would be paid by the purchaser for specific Commodities and contractual services without benefit of a Contract resulting from the solicitation, if awarded. It must be publicly listed, available, and verifiable by the Department. It may not be custom or solely developed, created, maintained, or utilized for purposes of the solicitation and resulting Contract, if awarded.

“MSRP List(s)” is an acronym for the Manufacturer’s Suggested Retail Price List, a collection of MSRPs and related information.

### **3.4 Who May Respond**

The Department will accept Responses from capable Tire Manufacturers, who are in good standing with the State of Florida, satisfying the requirements, specifications, terms, and conditions of the solicitation documents. To be eligible for award, a Respondent shall have the demonstrated capability to perform a statewide Contract in the State of Florida.

By submitting a Response, each Respondent certifies that it satisfies all criteria specified in the solicitation documents. The Department may request, and the Respondent shall provide, supporting information and / or documentation. **Failure to supply supporting information and / or documentation as required and / or requested will result in disqualification of the Response.**

### **3.5 MyFloridaMarketPlace Solicitation Overview**

The Department uses the MyFloridaMarketPlace System (“MFMP”) to receive Responses to solicitations electronically.

#### **3.5.1 MyFloridaMarketPlace Vendor Registration Application**

Vendors must have a revised, current, and complete Vendor Registration Application identified on the MyFloridaMarketPlace Vendor Registration System at: <https://vendor.myfloridamarketplace.com/>. If you have not registered or have requested a registration update, please be advised that a minimum of forty-eight (48) hours will be required for access to the MyFloridaMarketPlace Sourcing Tool. Completion of this registration is mandatory for those Vendors who wish to submit a Response.

#### **3.5.2 MyFloridaMarketPlace Sourcing Tool Training**

This solicitation will be conducted using the MyFloridaMarketPlace Sourcing Tool at: <https://sourcing.myfloridamarketplace.com/>. Optional training on how to respond to this solicitation electronically is offered at: [http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm).

Download and review the document titled “ITB Event User Guide.”

- For all technical questions about the Sourcing Tool, Vendors should contact the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or: [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).
- For additional information or assistance on using the Sourcing Tool, please visit the MyFloridaMarketPlace website at the following link: [http://marketplace.myflorida.com/vendor/vendor\\_solicitation\\_help.htm](http://marketplace.myflorida.com/vendor/vendor_solicitation_help.htm).

This site includes:

- a. Solicitation User Guides
- b. On Demand web-based Sourcing training link
- c. WinZip FAQs
- d. Vendor FAQs

### 3.5.3 MyFloridaMarketPlace Sourcing Tool Tips

When working in the MyFloridaMarketPlace Sourcing Tool, be aware of the twenty (20) minute time-out function in the tool. This means that you should save your work (click the SAVE button) at intervals of less than twenty (20) minutes to ensure your entries since you last saved are not lost.

Please note that clicking the SAVE button within the MyFloridaMarketPlace Sourcing Tool only saves your solicitation Responses. **The SAVE button does not transmit your solicitation Response to the State.** In order to transmit your solicitation Response to the State, you must click the SUBMIT button on the SUMMARY page of the solicitation Response.

After clicking the SUBMIT button, it is the Respondent’s responsibility to check any submitted Response within the MyFloridaMarketPlace Sourcing Tool to verify that the Response is accurately and completely captured within the MyFloridaMarketPlace Sourcing Tool. Respondents must do this while there is sufficient time remaining in the solicitation period in the event you discover an error and need to resubmit a revised Response.

To validate your Response, you should do the following before the solicitation period ends:

- Go to the “My Bids / My Responses” tab within the Sourcing Tool after you submitted your Response.
- Click on the Response ID number of your last submitted Response.
- Review entire Response to make sure all responses are complete, accurate, and as you intended to submit.
- Minimum areas to check are:
  - Text boxes – Is your entire answer viewable?
  - Yes/No questions – Is the displayed answer correct?
  - All uploaded document files – Can you open attached document(s) and clearly view entire content? Does the content of the file(s) match your intended Response within the MyFloridaMarketPlace Sourcing Tool (e.g., not an earlier version, incomplete copy, or working copy)?
  - Pricing and Other Information – Are all Prices and other information you intended to submit visible and accurately captured within MyFloridaMarketPlace Sourcing Tool?
  - Required Items - Are all items listed in the solicitation completed as required within the MyFloridaMarketPlace Sourcing Tool?



**DO NOT RELY ON THE MYFLORIDAMARKETPLACE SOURCING TOOL'S TIME REMAINING CLOCK. THE OFFICIAL SOLICITATION CLOSING TIME SHALL BE AS REFLECTED IN SECTION 1.2, TIMELINE.** The response deadline(s) shall be as reflected in Section 1.2, Timeline, of this solicitation. The MyFloridaMarketPlace Sourcing Tool's time remaining clock is not the official submission date and time deadline, it is intended only to approximate the solicitation closing and may require periodic adjustments.

**It is strongly recommended to submit your Response as early as possible. You should allow time to receive any requested assistance and to receive verification of your submittal; waiting until the last hours of the solicitation could impact the timely submittal of your Response.**

#### **3.5.4 MyFloridaMarketPlace and Vendor Bid System Email Notification**

Vendors are reminded that the sourcing tools' Email Notifications are an option provided as a courtesy. The State of Florida is not under any obligation and does not guarantee that Vendors will receive Email Notifications concerning the posting, Addendum, Amendment, or close of solicitations. **Vendors are responsible for checking the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System for information and updates concerning solicitations.**

#### **3.6 Amendments or Addendums to the Solicitation Documents**

The Department reserves the right to issue Amendments or Addendums to the solicitation. Notice of any Amendment or Addendum will be posted within the MyFloridaMarketPlace Sourcing Tool and / or the Vendor Bid System. Such notice, if required, will contain the appropriate details for identifying and reviewing the formal notices and / or changes to the solicitation. Each Vendor is responsible for monitoring the MyFloridaMarketPlace Sourcing Tool and the Vendor Bid System sites for new or changing information concerning the solicitation.

#### **3.7 Estimated Quantities**

To assist Respondents in the solicitation process, average estimated annual historical spend information is provided. Spend information is based on FY 04/05, FY 05/06, FY 06/07, and FY 07/08 data. This figure shall not be construed as commitments.

- **Estimated Annual Spend: \$26 Million (\$26M USD)**

The above figure reflects estimated annual spend generated by Eligible Users of past contracts for similar Commodities and / or contractual services and is not a commitment.

Additional estimations of usage, quantity, volume, weight, spend, and / or other estimates may be provided by the Department in the solicitation documents. The figures provided are to assist Respondents in the solicitation process and / or to assist the Department in evaluating, measuring, and / or scoring Responses to the solicitation and shall not be construed as commitments.

#### **3.8 Submittal of Response**

##### **3.8.1 Submittal of Offer**

Respondents will submit their offers via the MyFloridaMarketPlace Sourcing Tool (<https://sourcing.myfloridamarketplace.com/>). The Response shall include all appropriate pricing,

discounts, documents, forms, files, question responses, and information responses located within the MyFloridaMarketPlace Sourcing Tool for the solicitation. All required or requested pricing, discounts, documents, forms, files, question responses, and information responses will be entered electronically in the MyFloridaMarketPlace Sourcing Tool during this solicitation as indicated. If no indication for submission is provided for required or requested documents or files, or if instructions to mail a specific document, form, or file are provided, then those specific documents, forms, or files only shall be mailed to the attention of the Contact Person in Section 3.1 of the solicitation.

The outer packaging of mailed documents shall clearly state: Solicitation Title, Number (ITB No. 18-863-000-S; Tires), and the Solicitation Responses Due Date and Time from the Timeline in Section 1.2 of the solicitation. **Failure to provide all required information within the solicitation Response will result in rejection of the Response.**

In the event the Respondent submits more than one Response in the MyFloridaMarketPlace Sourcing Tool, only the last Response received by the system shall be considered for award. Previous Responses will not be visible to the State of Florida. Responses (other than document, file, or form submissions indicated by the solicitation to be mailed) not submitted within the MyFloridaMarketPlace Sourcing Tool shall be rejected. The system will require Respondents to review the Solicitation Preparation Checklist (Section 7.2) and confirm that they have completed all required activities before receiving the offer. The Solicitation Preparation Checklist does not relieve the Respondent of responsibility for ensuring that all requirements of the solicitation are included with the solicitation Response. The Solicitation Preparation Checklist does not have to be provided with the Response.

Each Respondent is responsible for ensuring that their offer is accurately and completely submitted before the Solicitation Responses Due Date and Time noted on the Timeline in Section 1.2 of the solicitation. The Department shall not consider late offers and the System will NOT accept offers after the Solicitation Responses Due Date and Time specified in the Timeline. **The Response must be accurate, complete, and submitted in the MyFloridaMarketplace Sourcing Tool, or as otherwise provided in the solicitation documents, by the date and time specified on the Timeline or the Response shall be deemed non-responsive.**

### **3.8.2 Price Sheet & Ordering Instructions Responses**

Price Sheet & Ordering Instructions Responses will be submitted in the locations and formats provided in the Price Sheet & Ordering Instructions, Section 7.1, as described and / or referenced within this Section, 3.8.2.

The Price Sheet & Ordering Instructions, Section 7.1, is contained within a separate Microsoft Excel™ workbook. There are two (2) individual spreadsheet tabs within the Price Sheet & Ordering Instructions: one (1) Price Sheet tab (per this Section 3.8.2) and one (1) Ordering Instructions Form tab (per Sections 3.8.7, Ordering Instructions, and 5.6, Ordering Instructions Information). The Price Sheet tab contains ten (10) Commodity Code Groups each with individual lines (rows) for each related Manufacturer / Brand Name (listed in alphabetical order) and its associated fields: Line No., GBPL Discount (Each Tire) [##.##%], Waste Tire Fee (Each Tire), Optional Related Services (Each Tire) [including Tire Disposal Price (\$##.##), Tire Mounting Price (\$##.##), Tire Valve Price (\$##.##), and Tire Balance Price (\$##.##)], Authorized Price List (GBPL Date [##/##/####]), and Authorized Dealer List. Information regarding the Ordering Instructions and their submission can be found in Sections 3.8.7, Ordering Instructions, and 5.6, Ordering Instructions Information.

Respondents are encouraged to respond for as many of the provided Commodity Codes and Manufacturer / Brand Names (with their associated fields) as they are the Manufacturer of and may choose to offer, but for each Commodity Code and Manufacturer / Brand Name offered, all related information must be supplied and submitted in the appropriate fields, provided locations, and formats required on the Price Sheet & Ordering Instructions, Section 7.1. The Respondent must complete the following fields for each Commodity Code and Manufacturer / Brand Name offered in the Section 7.1, Price Sheet & Ordering Instructions, Price Sheet tab:

- Organization Name;
- GBPL Discount (Each Tire) [##.##%];
- Optional Related Services (Each Tire) [including Tire Disposal Price (\$##.##), Tire Mounting Price (\$##.##), Tire Valve Price (\$##.##), and Tire Balance Price (\$##.##)]; and
- Authorized Price List (GBPL Date [##/##/####]). Note: Provide only the GBPL Date [##/##/####] offered; see Section 3.8.4, Supporting Documents, GBPL, and Section 5.9, Authorized Price List, for additional information.

The light-yellow colored spaces (cells) on the Price Sheet & Ordering Instructions, Section 7.1, are the places where the Respondent may offer specific Commodities and Optional Related Services and is required to supply accurate and complete information per the requirements, specifications, terms, and conditions herein. These light-yellow colored spaces (cells) on the Price Sheet & Ordering Instructions may contain bracketed notes providing instructions and requirements to assist the Respondent in providing the required information in the required format. Where provided, the Respondent shall follow the instructions and formats noted in any bracketed instructions for all Commodities offered. Should a Respondent not offer a specific Commodity Code or Manufacturer / Brand Name, they shall leave the associated line (row) / space(s) / field(s) untouched or blank (do not delete the line (row)).

All Prices will be in U.S. Dollars (\$USD; e.g., \$9.99); all Discounts shall be a positive Percentage to the one-hundredth decimal place (%; e.g., 99.99%); and all Dates will be in full standard numerical format (e.g., ##/##/####). The Respondent agrees and confirms that the prices (net after discount and firm, as applicable) offered do not exceed the Government Book Price for the respective Commodity or service.

The Respondent may offer only Commodities and Optional Related Services that meet or exceed the solicitation's requirements, specifications, terms, and conditions, and for which the Manufacturer / Brand Name is listed in the Price Sheet & Ordering Instructions (Section 7.1). Should a Respondent submit a Response containing a Commodity or Optional Related Service that does not meet or exceed the solicitation's requirements, specifications, terms, and conditions, and for which the Manufacturer / Brand Name is not listed in the Price Sheet & Ordering Instructions, that offer will be disqualified as non-responsive. The Department in its sole discretion shall determine the acceptability of a Manufacturer / Brand Name, Commodity, or Optional Related Service offered.

The Price Sheet & Ordering Instructions, Section 7.1, will be submitted to the Department electronically using the MyFloridaMarketPlace Sourcing Tool, per Section 3.8.1 of the solicitation. **Failure to properly submit or provide a compliant Section 7.1, Price Sheet & Ordering Instructions, with the Response shall result in the Respondent being deemed non-responsive.**

### 3.8.3 Alternate Responses

Respondent may not submit more than one offer for each listed Manufacturer / Brand Name per Commodity Code (including associated GBPL Discount, Optional Related Services Prices, GBPL Date, etc.). The Department seeks each Respondent's single-best Response by Manufacturer / Brand Name per Commodity Code.

### 3.8.4 Supporting Documents

Respondent shall submit the following Supporting Documents with their Response, as noted:

- **GBPL:** The Respondent shall provide one (1) applicable, current, complete, and matching GBPL with the Response for each GBPL offered under Section 7.1, Price Sheet & Ordering Instructions. Should multiple GBPLs be offered and provided, they must be notated with the applicable Commodity Code(s) and Manufacturer / Brand Name(s) on the cover. The GBPL must include the GBPL Date and for each Commodity the Manufacturer's Item Number, Manufacturer's Item Description, and Government Book Price.
- **Manufacturer's Standard Warranty:** For the Commodities offered, the Respondent will provide one (1) applicable, current, and complete copy of each Commodity unique Manufacturer's Standard Warranty with the Response. Should multiple Warranties be required and provided, they must be notated with the applicable Commodity Code(s) and Manufacturer / Brand Name(s) on the cover. Section 6.5, Warranty, specifies the Manufacturer's Standard Warranty coverage requirements of the solicitation and any resulting Contract, if awarded.

The Supporting Documents shall be mailed to the Department per Section 3.8.1 of the solicitation. **Failure to provide accurate and compliant Supporting Documents with the Response will result in the Respondent being deemed non-responsive.**

### 3.8.5 Manufacturer's Certification

Respondent shall submit one (1) completed Manufacturer's Certification form (Section 7.3), certifying that the Respondent is the Manufacturer for each Manufacturer / Brand Name they offer Commodities for as part of their Response. The Manufacturer's Certification form must be executed by the Manufacturer only and may not be completed by the Dealer / Certified Representative. The Manufacturer's Certification form shall be mailed to the Department per Section 3.8.1 of the solicitation. **Failure to provide a complete and compliant Manufacturer's Certification form with the Response will result in the Respondent being deemed non-responsive.**

### 3.8.6 Savings / Price Reductions

Respondent shall submit one (1) accurately completed Savings / Price Reductions form (Section 7.4) with their Response containing the required savings information for each Commodity Code with associated Optional Related Services offered and a method(s) for the Department to verify the savings information provided. The Savings / Price Reductions form will not be used to determine award, only to verify the Savings / Price Reductions being offered. The Savings / Price Reductions form shall be mailed to the Department per Section 3.8.1 of the solicitation. **Failure to provide the Savings / Price Reductions form with the Response may result in the Respondent being deemed non-responsive.**

### 3.8.7 Ordering Instructions

Respondent shall submit one (1) completed Ordering Instructions Form (contained within Section 7.1, Price Sheet & Ordering Instructions) with their Response identifying persons responsible for answering questions about the Response and administering the Contract, if awarded, and shall provide information necessary for placing orders and remitting payments under the Contract, if awarded. The Ordering Instructions Form will be submitted with Section 7.1, Price Sheet &

Ordering Instructions, to the Department electronically using the MyFloridaMarketPlace Sourcing Tool, per Section 3.8.1 of the solicitation. **Failure to provide the Ordering Instructions Form with the Response will result in the Respondent being deemed non-responsive.**

### **3.9 Evaluation Criteria**

The Department shall evaluate eligible responsive offers. Responses that do not meet all requirements of the solicitation or fail to provide all required information, documents, or materials may be rejected as non-responsive. Respondents whose Response, past performance, or current status do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements of a Contract may be rejected as non-responsive. The Department reserves the right to determine which Responses meet the requirements of this solicitation, and which Respondents are responsive and responsible.

### **3.10 Basis for Award**

The Department shall make a single award statewide by Manufacturer / Brand Name (Line Number) per Commodity Code to the responsive and responsible Respondent offering the highest GBPL Discount from the most recent GBPL Date (therefore providing the lowest Net Tire Prices) and with the lowest associated Optional Related Services Prices.

The Department reserves the right to make awards as determined to be in the best interest of the State of Florida, and to accept or reject any and all offers, or separable portions, and to waive any minor irregularity, technicality, or omission if the Department determines that doing so will serve the State of Florida's best interest.

### **3.11 State Objectives**

Within thirty (30) calendar days following award of the Contract, if awarded, the successful Respondent shall submit plans addressing each of the State's five (5) objectives listed below, to the extent applicable to the items / services covered by this solicitation.

#### **3.11.1 Diversity**

The State of Florida is committed to supporting its diverse business industry and population through ensuring participation by minority-, women-, and service-disabled veteran business enterprises in the economic life of the State. The State of Florida Mentor Protégé Program connects minority-, women-, and service-disabled veteran business enterprises with private corporations for business development mentoring. We strongly encourage firms doing business with the State of Florida to consider this initiative. For more information on the Mentor Protégé Program, please contact the Office of Supplier Diversity at (850) 487-0915.

The State is dedicated to fostering the continued development and economic growth of small, minority-, women-, and service-disabled veteran business enterprises. Participation by a diverse group of Vendors doing business with the State is central to this effort. To this end, it is vital that small, minority-, women-, and service-disabled veteran business enterprises participate in the State's procurement process as both Contractors and Sub-Contractors in this solicitation. Small, minority-, women-, and service-disabled veteran business enterprises are strongly encouraged to contribute to this solicitation.

The Contractor shall submit documentation addressing diversity and describing the efforts being made to encourage the participation of small, minority-, women-, and service-disabled veteran business enterprises.

Information on Certified Minority Business Enterprises (CMBE) and Certified Service-Disabled Veteran Business Enterprises (CSDVBE) is available from the Office of Supplier Diversity at:

[http://dms.myflorida.com/other\\_programs/office\\_of\\_supplier\\_diversity\\_osd/](http://dms.myflorida.com/other_programs/office_of_supplier_diversity_osd/).

Quarterly Reports of revenue paid to certified W/MBE and certified SDVBE Contractors (agents or Sub-Contractors) as a result of any award shall be provided to the Agency Purchasing Office by the Prime Contractor on an Agency by Agency (or other Eligible User) level.

### **3.11.2 Environmental Considerations**

The State supports and encourages initiatives to protect and preserve our environment. The Contractor shall submit as part of any response the Contractor's plan to support the procurement of products and materials with recycled content, and the intent of Section 287.045, Florida Statutes. The Contractor shall also provide a plan for reducing and or handling of any hazardous waste generated by Contractor's company. Reference Rule 62-730.160, Florida Administrative Code. It is a requirement of the Florida Department of Environmental Protection that a generator of hazardous waste materials that exceeds a certain threshold must have a valid and current Hazardous Waste Generator Identification Number. This identification number shall be submitted as part of Contractor's explanation of its company's hazardous waste plan and shall explain in detail its handling and disposal of this waste.

### **3.11.3 Certification of Drug-Free Workplace Program**

The State supports and encourages initiatives to keep the workplaces of Florida's Suppliers and Contractors drug free. Section 287.087 of the Florida Statutes provides that, where identical tie responses are received, one preference shall be given to a response received from a Respondent that certifies it has implemented a drug-free workforce program. If applicable, Respondent shall certify that the Respondent has a drug-free workplace program using the Certification of Drug-Free Workplace form included in Section 7.7 of the solicitation. The Contractor shall describe how it will address the implementation of a drug free workplace in offering the items of the solicitation.

### **3.11.4 Products Available from the Blind or Other Handicapped (RESPECT)**

The State supports and encourages the gainful employment of citizens with disabilities. It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this Contract shall be purchased from a nonprofit agency for the blind or for the severely handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in Section [413.036](#)(1) and (2), Florida Statutes; and for purposes of this Contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for the state agency insofar as dealings with such qualified nonprofit agency are concerned. Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

The Contractor shall describe how it will address the use of RESPECT in offering the items of the solicitation.

### **3.11.5 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE)**

The State supports and encourages the use of Florida correctional work programs. It is expressly understood and agreed that any articles which are the subject of, or required to carry out, this Contract shall be purchased from the corporation identified under Chapter 946, F.S., in the same manner and under the same procedures set forth in Section [946.515](#)(2), and (4), F.S.; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this Contract shall be deemed to be substituted for this agency insofar as dealings with such corporation are concerned. Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

The Contractor shall describe how it will address the use of PRIDE in offering the items of the solicitation.

### **3.12 Lobbying**

Please reference Section 2.21, Limitation on Vendor Contact with Agency During Solicitation Period.

Respondents are advised that the following will be included in the Contract for these services: In accordance with Section 216.347, Florida Statutes, and as provided herein, the Contractor may not expend any State funds for the purpose of lobbying the legislature, the judicial branch, the executive branch, or any State Agency.

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**SECTION 4.0**  
**GENERAL CONTRACT CONDITIONS [PUR1000 (10/06)]**

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**4.1 Definitions.** The definitions contained in s. 60A-1.001, F.A.C. shall apply to this agreement. The following additional terms are also defined:

(a) "Contract" means the legally enforceable agreement that results from a successful solicitation. The parties to the Contract will be the Customer and Contractor.

(b) "Customer" means the State agency or other entity identified in a contract as the party to receive commodities or contractual services pursuant to a contract or that orders commodities or contractual services via purchase order or other contractual instrument from the Contractor under the Contract. The "Customer" may also be the "Buyer" as defined in the PUR 1001 if it meets the definition of both terms.

(c) "Product" means any deliverable under the Contract, which may include commodities, services, technology or software.

(d) "Purchase order" means the form or format a Customer uses to make a purchase under the Contract (e.g., a formal written purchase order, electronic purchase order, procurement card, contract or other authorized means).

**4.2 Purchase Orders.** In contracts where commodities or services are ordered by the Customer via purchase order, Contractor shall not deliver or furnish products until a Customer transmits a purchase order. All purchase orders shall bear the Contract or solicitation number, shall be placed by the Customer directly with the Contractor, and shall be deemed to incorporate by reference the Contract and solicitation terms and conditions. Any discrepancy between the Contract terms and the terms stated on the Contractor's order form, confirmation, or acknowledgement shall be resolved in favor of terms most favorable to the Customer. A purchase order for services within the ambit of section 287.058(1) of the Florida Statutes shall be deemed to incorporate by reference the requirements of subparagraphs (a) through (f) thereof. Customers shall designate a contract manager and a contract administrator as required by subsections 287.057(15) and (16) of the Florida Statutes.

**4.3 Product Version.** Purchase orders shall be deemed to reference a manufacturer's most recently release model or version of the product at the time of the order, unless the Customer specifically requests in writing an earlier model or version and the contractor is willing to provide such model or version.

**4.4 Price Changes Applicable only to Term Contracts.** If this is a term contract for commodities or services, the following provisions apply.

(a) Quantity Discounts. Contractors are urged to offer additional discounts for one time delivery of large single orders. Customers should seek to negotiate additional price concessions on quantity purchases of any products offered under the Contract. State Customers shall document their files accordingly.

(b) Best Pricing Offer. During the Contract term, if the Customer becomes aware of better pricing offered by the Contractor for substantially the same or a smaller quantity of a product outside the Contract, but upon the same or similar terms of the Contract, then at the discretion of the Customer the price under the Contract shall be immediately reduced to the lower price.

(c) Sales Promotions. In addition to decreasing prices for the balance of the Contract term due to a change in market conditions, a Contractor may conduct sales promotions involving price reductions for a specified lesser period. A Contractor shall submit to the Contract Specialist documentation identifying the proposed (1) starting and ending dates of the promotion, (2) products involved, and (3) promotional prices compared to then-authorized prices. Promotional prices shall be available to all Customers. Upon approval, the Contractor shall provide conspicuous notice of the promotion.

(d) Trade-In. Customers may trade-in equipment when making purchases from the Contract. A trade-in shall be negotiated between the Customer and the Contractor. Customers are obligated to actively seek current fair market value when trading equipment, and to keep accurate records of the process. For State agencies, it may be necessary to provide documentation to the Department of Financial Services and to the agency property custodian pursuant to Chapter 273, F.S.

(e) Equitable Adjustment. The Customer may, in its sole discretion, make an equitable adjustment in the Contract terms or pricing if pricing or availability of supply is affected by extreme and unforeseen volatility in the marketplace, that is, by circumstances that satisfy all the following criteria: (1) the volatility is due to causes wholly beyond the Contractor's control, (2) the volatility affects the marketplace or industry, not just the particular Contract source of supply, (3) the effect on pricing or availability of supply is substantial, and (4) the volatility so affects the Contractor that continued performance of the Contract would result in a substantial loss.

**4.5 Additional Quantities.** For a period not exceeding ninety (90) days from the date of solicitation award, the Customer reserves the right to acquire additional quantities up to the amount shown on the solicitation but not to exceed the threshold for Category Two at the prices submitted in the response to the solicitation.

**4.6 Packaging.** Tangible product shall be securely and properly packed for shipment, storage, and stocking in appropriate, clearly labeled, shipping containers and according to accepted commercial practice, without extra charge for packing materials, cases, or other types of containers. All containers and packaging shall become and remain Customer's property.

**4.7 Inspection at Contractor's Site.** The Customer reserves the right to inspect, at any reasonable time with prior notice, the equipment or product or plant or other facilities of a Contractor to assess conformity with Contract requirements and to determine whether they are adequate and suitable for proper and effective Contract performance.

**4.8 Safety Standards.** All manufactured items and fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate State inspector. Acceptability customarily requires, at a minimum, identification marking of the appropriate safety standard organization, where such approvals of listings have been established for the type of device offered and furnished, for example: the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and/or National Electrical Manufacturers' Association for electrically operated assemblies; and the American Gas Association for gas-operated assemblies. In addition, all items furnished shall meet all applicable requirements of the Occupational Safety and Health Act and state and federal requirements relating to clean air and water pollution.

**4.9 Americans with Disabilities Act.** Contractors should identify any products that may be used or adapted for use by visually, hearing, or other physically impaired individuals.

**4.10 Literature.** Upon request, the Contractor shall furnish literature reasonably related to the product offered, for example, user manuals, price schedules, catalogs, descriptive brochures, etc.

**4.11 Transportation and Delivery.** Prices shall include all charges for packing, handling, freight, distribution, and inside delivery. Transportation of goods shall be FOB Destination to any point within thirty (30) days after the Customer places an Order. A Contractor, within five (5) days after receiving a purchase order, shall notify the Customer of any potential delivery delays. Evidence of inability or intentional delays shall be cause for Contract cancellation and Contractor suspension.

**4.12 Installation.** Where installation is required, Contractor shall be responsible for placing and installing the product in the required locations at no additional charge, unless otherwise designated on the Contract or

purchase order. Contractor's authorized product and price list shall clearly and separately identify any additional installation charges. All materials used in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment, rigging, and materials required to install or replace the product in the proper location. Contractor shall protect the site from damage and shall repair damages or injury caused during installation by Contractor or its employees or agents. If any alteration, dismantling, excavation, etc., is required to achieve installation, the Contractor shall promptly restore the structure or site to its original condition. Contractor shall perform installation work so as to cause the least inconvenience and interference with Customers and with proper consideration of others on site. Upon completion of the installation, the location and surrounding area of work shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

**4.13 Risk of Loss.** Matters of inspection and acceptance are addressed in s. 215.422, F.S. Until acceptance, risk of loss or damage shall remain with the Contractor. The Contractor shall be responsible for filing, processing, and collecting all damage claims. To assist the Contractor with damage claims, the Customer shall: record any evidence of visible damage on all copies of the delivering carrier's Bill of Lading; report damages to the carrier and the Contractor; and provide the Contractor with a copy of the carrier's Bill of Lading and damage inspection report. When a Customer rejects a product, Contractor shall remove it from the premises within ten days after notification or rejection. Upon rejection notification, the risk of loss of rejected or non-conforming product shall remain with the Contractor. Rejected product not removed by the Contractor within ten days shall be deemed abandoned by the Contractor, and the Customer shall have the right to dispose of it as its own property. Contractor shall reimburse the Customer for costs and expenses incurred in storing or effecting removal or disposition of rejected product.

**4.14 Transaction Fee.** The State of Florida has instituted MyFloridaMarketPlace, a statewide eProcurement System ("System"). Pursuant to section 287.057(23), Florida Statutes (2002), all payments shall be assessed a Transaction Fee of one percent (1.0%), which the Contractor shall pay to the State, unless exempt pursuant to 60A-1.032, F.A.C.

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

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

Failure to comply with these requirements shall constitute grounds for declaring the Contractor in default and recovering procurement costs from the Contractor in addition to all outstanding fees. **CONTRACTORS DELINQUENT IN PAYING TRANSACTION FEES MAY BE SUBJECT TO BEING REMOVED FROM THE DEPARTMENT OF MANAGEMENT SERVICES' VENDOR LIST AS PROVIDED IN RULE 60A-1.006, F.A.C.**

**4.15 Invoicing and Payment.** Invoices shall contain the Contract number, purchase order number if applicable, and the appropriate vendor identification number. The State may require any other information from the Contractor that the State deems necessary to verify any purchase order placed under the Contract.

At the State's option, Contractors may be required to invoice electronically pursuant to guidelines of the Department of Management Services. Current guidelines require that Contractor supply electronic invoices in lieu of paper-based invoices for those transactions processed through the system. Electronic invoices shall be

submitted to the Customer through the Ariba Supplier Network (ASN) in one of the following mechanisms – EDI 810, cXML, or web-based invoice entry within the ASN.

Payment shall be made in accordance with sections 215.422 and 287.0585 of the Florida Statutes, which govern time limits for payment of invoices. Invoices that must be returned to a Contractor due to preparation errors will result in a delay in payment. Contractors may call (850) 413-7269 Monday through Friday to inquire about the status of payments by State Agencies. The Customer is responsible for all payments under the Contract. A Customer's failure to pay, or delay in payment, shall not constitute a breach of the Contract and shall not relieve the Contractor of its obligations to the Department or to other Customers.

**4.16 Taxes.** The State does not pay Federal excise or sales taxes on direct purchases of tangible personal property. The State will not pay for any personal property taxes levied on the Contractor or for any taxes levied on employees' wages. Any exceptions to this paragraph shall be explicitly noted by the Customer in the special contract conditions section of the solicitation or in the Contract or purchase order.

**4.17 Governmental Restrictions.** If the Contractor believes that any governmental restrictions have been imposed that require alteration of the material, quality, workmanship or performance of the products offered under the Contract, the Contractor shall immediately notify the Customer in writing, indicating the specific restriction. The Customer reserves the right and the complete discretion to accept any such alteration or to cancel the Contract at no further expense to the Customer.

**4.18 Lobbying and Integrity.** Customers shall ensure compliance with Section 11.062, FS and Section 216.347, FS. The Contractor shall not, in connection with this or any other agreement with the State, directly or indirectly (1) offer, confer, or agree to confer any pecuniary benefit on anyone as consideration for any State officer or employee's decision, opinion, recommendation, vote, other exercise of discretion, or violation of a known legal duty, or (2) offer, give, or agree to give to anyone any gratuity for the benefit of, or at the direction or request of, any State officer or employee. For purposes of clause (2), "gratuity" means any payment of more than nominal monetary value in the form of cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment, or contracts of any kind. Upon request of the Customer's Inspector General, or other authorized State official, the Contractor shall provide any type of information the Inspector General deems relevant to the Contractor's integrity or responsibility. Such information may include, but shall not be limited to, the Contractor's business or financial records, documents, or files of any type or form that refer to or relate to the Contract. The Contractor shall retain such records for the longer of (1) three years after the expiration of the Contract or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at: <http://dhis.dos.state.fl.us/barm/genschedules/gensched.htm>). The Contractor agrees to reimburse the State for the reasonable costs of investigation incurred by the Inspector General or other authorized State official for investigations of the Contractor's compliance with the terms of this or any other agreement between the Contractor and the State which results in the suspension or debarment of the Contractor. Such costs shall include, but shall not be limited to: salaries of investigators, including overtime; travel and lodging expenses; and expert witness and documentary fees. The Contractor shall not be responsible for any costs of investigations that do not result in the Contractor's suspension or debarment.

**4.19 Indemnification.** The Contractor shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Customers, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or subcontractors, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State or a Customer.

Further, the Contractor shall fully indemnify, defend, and hold harmless the State and Customers from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Customer's misuse or modification of Contractor's products or a Customer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Customer the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Customer the right to continue using the product, the Contractor shall remove the product and refund the Customer the amounts paid in excess of a reasonable rental for past use. The customer shall not be liable for any royalties.

The Contractor's obligations under the preceding two paragraphs with respect to any legal action are contingent upon the State or Customer giving the Contractor (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's sole expense, and (3) assistance in defending the action at Contractor's sole expense. The Contractor shall not be liable for any cost, expense, or compromise incurred or made by the State or Customer in any legal action without the Contractor's prior written consent, which shall not be unreasonably withheld.

**4.20 Limitation of Liability.** For all claims against the Contractor under any contract or purchase order, and regardless of the basis on which the claim is made, the Contractor's liability under a contract or purchase order for direct damages shall be limited to the greater of \$100,000, the dollar amount of the contract or purchase order, or two times the charges rendered by the Contractor under the purchase order. This limitation shall not apply to claims arising under the Indemnity paragraph contain in this agreement.

Unless otherwise specifically enumerated in the Contract or in the purchase order, no party shall be liable to another for special, indirect, punitive, or consequential damages, including lost data or records (unless the contract or purchase order requires the Contractor to back-up data or records), even if the party has been advised that such damages are possible. No party shall be liable for lost profits, lost revenue, or lost institutional operating savings. The State and Customer may, in addition to other remedies available to them at law or equity and upon notice to the Contractor, retain such monies from amounts due Contractor as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against them. The State may set off any liability or other obligation of the Contractor or its affiliates to the State against any payments due the Contractor under any contract with the State.

**4.21 Suspension of Work.** The Customer may in its sole discretion suspend any or all activities under the Contract or purchase order, at any time, when in the best interests of the State to do so. The Customer shall provide the Contractor written notice outlining the particulars of suspension. Examples of the reason for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, the Contractor shall comply with the notice and shall not accept any purchase orders. Within ninety days, or any longer period agreed to by the Contractor, the Customer shall either (1) issue a notice authorizing resumption of work, at which time activity shall resume, or (2) terminate the Contract or purchase order. Suspension of work shall not entitle the Contractor to any additional compensation.

**4.22 Termination for Convenience.** The Customer, by written notice to the Contractor, may terminate the Contract in whole or in part when the Customer determines in its sole discretion that it is in the State's interest to do so. The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the Contract, if any. The Contractor shall not be entitled to recover any cancellation charges or lost profits.

**4.23 Termination for Cause.** The Customer may terminate the Contract if the Contractor fails to (1) deliver the product within the time specified in the Contract or any extension, (2) maintain adequate progress, thus endangering performance of the Contract, (3) honor any term of the Contract, or (4) abide by any statutory, regulatory, or licensing requirement. Rule 60A-1.006(3), F.A.C., governs the procedure and consequences of default. The Contractor shall continue work on any work not terminated. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from events completely beyond the control, and without the fault or negligence, of the Contractor. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both the Contractor and the subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted products were obtainable from other sources in sufficient time for the Contractor to meet the required delivery schedule. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Customer. The rights and remedies of the Customer in this clause are in addition to any other rights and remedies provided by law or under the Contract.

**4.24 Force Majeure, Notice of Delay, and No Damages for Delay.** The Contractor shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of the Contractor or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Contractor's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, the Contractor shall notify the Customer in writing of the delay or potential delay and describe the cause of the delay either (1) within ten (10) days after the cause that creates or will create the delay first arose, if the Contractor could reasonably foresee that a delay could occur as a result, or (2) if delay is not reasonably foreseeable, within five (5) days after the date the Contractor first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE CONTRACTOR'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against the Customer. The Contractor shall not be entitled to an increase in the Contract price or payment of any kind from the Customer for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist the Contractor shall perform at no increased cost, unless the Customer determines, in its sole discretion, that the delay will significantly impair the value of the Contract to the State or to Customers, in which case the Customer may (1) accept allocated performance or deliveries from the Contractor, provided that the Contractor grants preferential treatment to Customers with respect to products subjected to allocation, or (2) purchase from other sources (without recourse to and by the Contractor for the related costs and expenses) to replace all or part of the products that are the subject of the delay, which purchases may be deducted from the Contract quantity, or (3) terminate the Contract in whole or in part.

**4.25 Changes.** The Customer may unilaterally require, by written order, changes altering, adding to, or deducting from the Contract specifications, provided that such changes are within the general scope of the Contract. The Customer may make an equitable adjustment in the Contract price or delivery date if the change affects the cost or time of performance. Such equitable adjustments require the written consent of the Contractor, which shall not be unreasonably withheld. If unusual quantity requirements arise, the Customer may solicit separate bids to satisfy them.

**4.26 Renewal.** Upon mutual agreement, the Customer and the Contractor may renew the Contract, in whole or in part, for a period that may not exceed 3 years or the term of the contract, whichever period is longer. Any renewal shall specify the renewal price, as set forth in the solicitation response. The renewal must be in writing

and signed by both parties, and is contingent upon satisfactory performance evaluations and subject to availability of funds.

**4.27 Purchase Order Duration.** Purchase orders issued pursuant to a state term or agency contract must be received by the Contractor no later than close of business on the last day of the contract's term to be considered timely. The Contractor is obliged to fill those orders in accordance with the contract's terms and conditions. Purchase orders received by the contractor after close of business on the last day of the state term or agency contract's term shall be considered void.

Purchase orders for a one-time delivery of commodities or performance of contractual services shall be valid through the performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the single delivery/performance, and shall survive the termination of the Contract.

Contractors are required to accept purchase orders specifying delivery schedules exceeding the contracted schedule even when such extended delivery will occur after expiration of the state term or agency contract. For example, if a state term contract calls for delivery 30 days after receipt of order (ARO), and an order specifies delivery will occur both in excess of 30 days ARO and after expiration of the state term contract, the Contractor will accept the order. However, if the Contractor expressly and in writing notifies the ordering office within ten (10) calendar days of receipt of the purchase order that Contractor will not accept the extended delivery terms beyond the expiration of the state term contract, then the purchase order will either be amended in writing by the ordering entity within ten (10) calendar days of receipt of the contractor's notice to reflect the state term contract delivery schedule, or it shall be considered withdrawn.

The duration of purchase orders for recurring deliveries of commodities or performance of services shall not exceed the expiration of the state term or agency contract by more than twelve months. However, if an extended pricing plan offered in the state term or agency contract is selected by the ordering entity, the contract terms on pricing plans and renewals shall govern the maximum duration of purchase orders reflecting such pricing plans and renewals.

Timely purchase orders shall be valid through their specified term and performance by the Contractor, and all terms and conditions of the state term or agency contract shall apply to the recurring delivery/performance as provided herein, and shall survive the termination of the Contract.

Ordering offices shall not renew a purchase order issued pursuant to a state term or agency contract if the underlying contract expires prior to the effective date of the renewal.

**4.28 Advertising.** Subject to Chapter 119, Florida Statutes, the Contractor shall not publicly disseminate any information concerning the Contract without prior written approval from the Customer, including, but not limited to mentioning the Contract in a press release or other promotional material, identifying the Customer or the State as a reference, or otherwise linking the Contractor's name and either a description of the Contract or the name of the State or the Customer in any material published, either in print or electronically, to any entity that is not a party to Contract, except potential or actual authorized distributors, dealers, resellers, or service representative.

**4.29 Assignment.** The Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any purchase order issued pursuant to the Contract, without the prior written consent of the Customer. In the event of any assignment, the Contractor remains secondarily liable for performance of the contract, unless the Customer expressly waives such secondary liability. The Customer may assign the Contract with prior written notice to Contractor of its intent to do so.

**4.30 Antitrust Assignment.** The Contractor and the State of Florida recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the State of Florida.



Therefore, the contractor hereby assigns to the State of Florida any and all claims for such overcharges as to goods, materials or services purchased in connection with the Contract.

**4.31 Dispute Resolution.** Any dispute concerning performance of the Contract shall be decided by the Customer's designated contract manager, who shall reduce the decision to writing and serve a copy on the Contractor. The decision shall be final and conclusive unless within twenty one (21) days from the date of receipt, the Contractor files with the Customer a petition for administrative hearing. The Customer's decision on the petition shall be final, subject to the Contractor's right to review pursuant to Chapter 120 of the Florida Statutes. Exhaustion of administrative remedies is an absolute condition precedent to the Contractor's ability to pursue any other form of dispute resolution; provided, however, that the parties may employ the alternative dispute resolution procedures outlined in Chapter 120.

Without limiting the foregoing, the exclusive venue of any legal or equitable action that arises out of or relates to the Contract shall be the appropriate state court in Leon County, Florida; in any such action, Florida law shall apply and the parties waive any right to jury trial.

**4.32 Employees, Subcontractors, and Agents.** All Contractor employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Customer and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with a Customer's security or other requirements. Such approval shall not relieve the Contractor of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's employees, subcontractors, or agents.

**4.33 Security and Confidentiality.** The Contractor shall comply fully with all security procedures of the United States, State of Florida and Customer in performance of the Contract. The Contractor shall not divulge to third parties any confidential information obtained by the Contractor or its agents, distributors, resellers, subcontractors, officers or employees in the course of performing Contract work, including, but not limited to, security procedures, business operations information, or commercial proprietary information in the possession of the State or Customer. The Contractor shall not be required to keep confidential information or material that is publicly available through no fault of the Contractor, material that the Contractor developed independently without relying on the State's or Customer's confidential information, or material that is otherwise obtainable under State law as a public record. To insure confidentiality, the Contractor shall take appropriate steps as to its personnel, agents, and subcontractors. The warranties of this paragraph shall survive the Contract.

**4.34 Contractor Employees, Subcontractors, and Other Agents.** The Customer and the State shall take all actions necessary to ensure that Contractor's employees, subcontractors and other agents are not employees of the State of Florida. Such actions include, but are not limited to, ensuring that Contractor's employees, subcontractors, and other agents receive benefits and necessary insurance (health, workers' compensations, and unemployment) from an employer other than the State of Florida.

**4.35 Insurance Requirements.** During the Contract term, the Contractor at its sole expense shall provide commercial insurance of such a type and with such terms and limits as may be reasonably associated with the Contract. Providing and maintaining adequate insurance coverage is a material obligation of the Contractor. Upon request, the Contractor shall provide certificate of insurance. The limits of coverage under each policy maintained by the Contractor shall not be interpreted as limiting the Contractor's liability and obligations under the Contract. All insurance policies shall be through insurers authorized or eligible to write policies in Florida.

**4.36 Warranty of Authority.** Each person signing the Contract warrants that he or she is duly authorized to do so and to bind the respective party to the Contract.

**4.37 Warranty of Ability to Perform.** The Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish the Contractor's ability to satisfy its Contract obligations. The Contractor warrants that neither it nor any affiliate is currently on the convicted vendor list maintained pursuant to section 287.133 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the Customer in writing if its ability to perform is compromised in any manner during the term of the Contract.

**4.38 Notices.** All notices required under the Contract shall be delivered by certified mail, return receipt requested, by reputable air courier service, or by personal delivery to the agency designee identified in the original solicitation, or as otherwise identified by the Customer. Notices to the Contractor shall be delivered to the person who signs the Contract. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

**4.39 Leases and Installment Purchases.** Prior approval of the Chief Financial Officer (as defined in Section 17.001, F.S.) is required for State agencies to enter into or to extend any lease or installment-purchase agreement in excess of the Category Two amount established by section 287.017 of the Florida Statutes.

**4.40 Prison Rehabilitative Industries and Diversified Enterprises, Inc. (PRIDE).** Section 946.515(2), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles which are the subject of, or required to carry out, the Contract shall be purchased from the corporation identified under Chapter 946 of the Florida Statutes (PRIDE) in the same manner and under the same procedures set forth in section 946.515(2) and (4) of the Florida Statutes; and for purposes of the Contract the person, firm, or other business entity carrying out the provisions of the Contract shall be deemed to be substituted for the agency insofar as dealings with such corporation are concerned." Additional information about PRIDE and the products it offers is available at <http://www.pridefl.com>.

**4.41 Products Available from the Blind or Other Handicapped.** Section 413.036(3), F.S. requires the following statement to be included in the solicitation: "It is expressly understood and agreed that any articles that are the subject of, or required to carry out, this contract shall be purchased from a nonprofit agency for the Blind or for the Severely Handicapped that is qualified pursuant to Chapter 413, Florida Statutes, in the same manner and under the same procedures set forth in section 413.036(1) and (2), Florida Statutes; and for purposes of this contract the person, firm, or other business entity carrying out the provisions of this contract shall be deemed to be substituted for the State agency insofar as dealings with such qualified nonprofit agency are concerned." Additional information about the designated nonprofit agency and the products it offers is available at <http://www.respectofflorida.org>.

**4.42 Modification of Terms.** The Contract contains all the terms and conditions agreed upon by the parties, which terms and conditions shall govern all transactions between the Customer and the Contractor. The Contract may only be modified or amended upon mutual written agreement of the Customer and the Contractor. No oral agreements or representations shall be valid or binding upon the Customer or the Contractor. No alteration or modification of the Contract terms, including substitution of product, shall be valid or binding against the Customer. The Contractor may not unilaterally modify the terms of the Contract by affixing additional terms to product upon delivery (e.g., attachment or inclusion of standard preprinted forms, product literature, "shrink wrap" terms accompanying or affixed to a product, whether written or electronic) or by incorporating such terms onto the Contractor's order or fiscal forms or other documents forwarded by the Contractor for payment. The Customer's acceptance of product or processing of documentation on forms

furnished by the Contractor for approval or payment shall not constitute acceptance of the proposed modification to terms and conditions.

**4.43 Cooperative Purchasing.** Pursuant to their own governing laws, and subject to the agreement of the Contractor, other entities may be permitted to make purchases at the terms and conditions contained herein. Non-Customer purchases are independent of the agreement between Customer and Contractor, and Customer shall not be a party to any transaction between the Contractor and any other purchaser.

State agencies wishing to make purchases from this agreement are required to follow the provisions of s. 287.042(16)(a), F.S. This statute requires the Department of Management Services to determine that the requestor's use of the contract is cost-effective and in the best interest of the State.

**4.44 Waiver.** The delay or failure by the Customer to exercise or enforce any of its rights under this Contract shall not constitute or be deemed a waiver of the Customer's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

**4.45 Annual Appropriations.** The State's performance and obligation to pay under this contract are contingent upon an annual appropriation by the Legislature.

**4.46 Execution in Counterparts.** The Contract may be executed in counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**4.47 Severability.** If a court deems any provision of the Contract void or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

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**SECTION 5.0**  
**SPECIAL CONDITIONS**

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## **5.1 Definitions**

The Definitions found and referenced in the General Contract Conditions [PUR1000 (10/06)], Section 4.1, and the Definitions found and referenced in Section 3.3, Definitions, shall apply to this Section 5.1, Definitions.

## **5.2 Period of Agreement**

The State Term Contract shall be in effect beginning on the Contract Formation date, per Section 2.17, and end February 29, 2012. This agreement has the option to renew for one (1) additional three (3) year period, or any portion or portions thereof. Renewal is contingent upon satisfactory performance by the Contractor and will not be subject to pricing or discount adjustments.

## **5.3 Indemnification**

The Contractor shall be fully liable for the actions of its agents, employees, partners, or Contractor owned and / or controlled Authorized Dealers and shall fully indemnify, defend, and hold harmless the State and Eligible Users, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Contractor, its agents, employees, partners, or Contractor owned and / or controlled Authorized Dealers, provided, however, that the Contractor shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State, an Eligible User, or an independent Authorized Dealer.

The independent Authorized Dealer shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless the State and Eligible Users, and their officers, agents, and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by independent Authorized Dealer, its agents, employees, partners, or subcontractors, provided, however, that the independent Authorized Dealer shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of the State, an Eligible User, or Contractor.

Further, the Contractor, individually and including Contractor owned and / or controlled Authorized Dealers, shall fully indemnify, defend, and hold harmless the State and Eligible Users from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret, or intellectual property right, provided, however, that the foregoing obligation shall not apply to a Eligible User's or independent Authorized Dealer's misuse or modification of Contractor's products or a Eligible User's or independent Authorized Dealer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit, or in the Contractor's opinion is likely to become the subject of such a suit, the Contractor may at its sole expense procure for the Eligible User the right to continue using the product or to modify it to become non-infringing. If the Contractor is not reasonably able to modify or otherwise secure the Eligible User the right to continue using the product, the Contractor shall remove the product and refund the Eligible User the amounts paid in excess of a reasonable rental for past use. The Eligible User shall not be liable for any royalties.

Additionally, the independent Authorized Dealer shall fully indemnify, defend, and hold harmless the State and Eligible Users from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright,

patent, trade secret or intellectual property right resulting from the independent Authorized Dealer's alleged misuse or modification of Contractor's products or independent Authorized Dealer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order, provided, however, that the foregoing obligation shall not apply to a Eligible User's or Contractor's misuse or modification of Contractor's products or a Eligible User's or Contractor's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order. If any product is the subject of an infringement suit resulting from the independent Authorized Dealer's alleged misuse or modification of Contractor's products or independent Authorized Dealer's operation or use of Contractor's products in a manner not contemplated by the Contract or the purchase order, or in the independent Authorized Dealer's opinion is likely to become the subject of such a suit, the independent Authorized Dealer may at its sole expense procure for the Eligible User the right to continue using the product or to modify it to become non-infringing. If the independent Authorized Dealer is not reasonably able to modify or otherwise secure the Eligible User the right to continue using the product, the independent Authorized Dealer shall remove the product and refund the Eligible User the amounts paid in excess of a reasonable rental for past use. The Eligible User shall not be liable for any royalties.

The Contractor's and the independent Authorized Dealer's respective obligations under the preceding four paragraphs with respect to any legal action are contingent upon the State or Eligible User giving the Contractor or independent Authorized Dealer (1) written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at Contractor's or independent Authorized Dealer's sole expense, and (3) assistance in defending the action at Contractor's or independent Authorized Dealer's sole expense. The Contractor or independent Authorized Dealer shall not be liable for any cost, expense, or compromise incurred or made by the State or Eligible User in any legal action without the Contractor's or independent Authorized Dealer's prior written consent, which shall not be unreasonably withheld.

This Section, 5.3, supersedes and replaces Section 4.19, Indemnification.

#### **5.4 Catalog Data**

The MyFloridaMarketPlace ("MFMP") third-party service provider is responsible for converting Contract catalog information into a format supported by the system. To accomplish this conversion, the Contractor, if requested, shall provide certain information in electronic format directly to the service provider (Note: This format is generally Microsoft Excel™.).

Within ten (10) business days of written notice from the MFMP service provider, Contractor shall provide all information necessary to facilitate electronic purchases from this Contract. Such information may include, but is not limited to, Contractor Name, Manufacturer / Brand Name, SKU, Commodity Description, unit of measure, and Contract Ceiling Price, per Section 5.7. Contractor shall provide this information in the format required by the MFMP service provider. No costs or expenses associated with providing this information shall be charged to the State, Department, Eligible Users, or MFMP service provider. With the Contractor's timely assistance, the MFMP service provider shall create and maintain web-based placement of the requested Contract information.

#### **5.5 Internet Posting of Authorized Lists**

During the Contract Period of Agreement, Section 5.2, the Department shall maintain on the internet a working copy of the complete Contract, including, but not limited to, the Authorized Price List and Authorized Dealer List. The Authorized Price List and Authorized Dealer List will be provided to the Department in electronic format by the Contractor as required herein, and in accordance with the prices, discounts, requirements, terms, and conditions of the Contract.

The Contractor and Authorized Dealer agree to not maintain, publish, provide, or allow discovery of competing, conflicting, unofficial, unauthorized, or non-Department approved contract similar documents to / by Eligible Users. The Contractor and Authorized Dealer shall not accept any orders off of the Authorized Price List and Authorized Dealer List until the Department approves the respective lists and publishes them to the Contract website noted above.

The Department may, in its sole discretion, prohibit any update or change of the Authorized Price List and Authorized Dealer List, or direct a Contractor and Authorized Dealer to undo any update or change made. In addition, the Department may direct rescission of any purchase entered into on the basis of competing, conflicting, unofficial, unauthorized, or non-Department approved lists.

## **5.6 Ordering Instructions Information**

The Ordering Instructions contained or referenced within Section 7.1, Price Sheet & Ordering Instructions, will contain current information relevant to the acquisition of Tires and Optional Related Services under the Contract. This information shall include, but not be limited to, the Contractor's name and identifying numbers with their contact information, the Contractor's Representative's name with their contact information, the Contractor's Remit-To Information, and a list of Department maintained instructions to assist Eligible Users in placing orders under the Contract.

It is the Contractor's responsibility to notify the Department of any updates to organization information, relevant personnel, and contact information contained in the Ordering Instructions. The Contractor shall notify the Department of a requested change to the Ordering Instructions in writing and received by the Contract Manager no later than five (5) business days prior to the effective date of the proposed change. The Department may accept or reject any proposed change, or may unilaterally amend the Ordering Instructions as it deems is in the best interest of the State and / or will best assist Eligible Users.

## **5.7 Ceiling Prices**

The individual Net Tire Prices (after the applicable GBPL Discount is applied to the approved Government Book Price) and individual Optional Related Service Prices contained or referenced in the Section 7.1, Price Sheet & Ordering Instructions, Authorized Price List, will be the not-to-exceed Ceiling Prices under the Contract. Unless stated otherwise herein, the Ceiling Prices for the Tires and Optional Related Services individually include: all profit, administrative charges / fees, Authorized Dealer preparation charges / fees, environmental charges / fees (except Waste Tire Fee, per Section 5.8), packing charges / fees, handling charges / fees, freight charges / fees, shipping charges / fees, delivery charges / fees to any point within the State of Florida, warranty charges / fees, shop charges / fees, and any other charges or fees necessary to provide the Tire or Optional Related Service according to the requirements, specifications, terms, and conditions, exclusive of taxes.

Where a Ceiling Price is a Net Tire Price, the Net Tire Price shall be calculated by applying the applicable GBPL Discount from Section 7.1, Price Sheet & Ordering Instructions, to the individual Tire's approved Government Book Price and rounding to the nearest whole cent. For example, if the applicable GBPL Discount is 50.00% and the individual Tire's Government Book Price is \$147.59, then the Net Tire Price will be \$73.80 [ $\$147.59 - 50.00\% = \$73.795 = \$73.80$  (as rounded to the nearest whole cent)].

Additionally, the Contractor may, is encouraged to, and under certain circumstances (per Section 5.9, Authorized Price List) shall be required by the Department to provide Net Down Prices for contracted Tires. A Net Down Price is where the Contractor provides a specific Tire with a price lower than the

contractually required Net Tire Price (Ceiling Price). For example, if the Net Tire Price is calculated at \$73.80, the Net Down Price may be provided by the Contractor at a lower price, \$55.00. Net Down Prices shall not exceed the Net Tire Price (Ceiling Prices) for the respective Tires.

Eligible Users may negotiate Net Tire Prices, Net Down Prices, and Optional Related Service Prices for the contracted Tires and Optional Related Services with the Contractor and Authorized Dealer, provided the negotiated prices do not exceed the Ceiling Prices for the respective Tire or Optional Related Service. The Contractor and Authorized Dealer are prohibited from negotiating and charging prices that exceed the Ceiling Prices set forth or referenced in the Price Sheet & Ordering Instructions, Section 7.1, and from invoicing or billing at prices that exceed the total ordered (e.g., on the Purchase Order or Purchasing Card, Fuel Card, or Fleet Card). The Ceiling Prices are only subject to adjustments per Section 5.9, Authorized Price List, and must have received the prior approval of the Department.

The Ceiling Price for any Tire or Optional Related Service must not exceed the current GBPL Price. In the event a Ceiling Price for any Tire or Optional Related Service is found to be above the current GBPL Price, the Department, at its sole option, shall reduce the Ceiling Price to the current GBPL Price or terminate and remove the Contractor's award from the Contract.

## **5.8 Waste Tire Fee**

For the purpose of this Contract, the term "Waste Tire Fee" only shall apply to the government tax and / or fee imposed for the purchase of new Tires pursuant to Chapters 403.717 and 403.718, F.S., and does not apply to the Optional Related Service of Tire Disposal, per Section 6.3, Commodity and Optional Related Services Specifications and Standards.

Pursuant to Chapters 403.717 and 403.718, F.S., Eligible Users of this Contract are currently required to pay a Waste Tire Fee for each new Tire purchased in the State of Florida. The Waste Tire Fee imposed under Chapters 403.717 and 403.718, F.S., shall be stated separately on the order and invoice as an additional charge to the Eligible User. The current monetary amount of the per Commodity per Tire Waste Tire Fee is provided in the Price Sheet & Ordering Instructions (Section 7.1), which may be revised by the Department as necessary. Submission of the Waste Tire Fee and any related reports to the Florida Department of Revenue, or subsequently named agency, is the responsibility of the Contractor and Authorized Dealer.

The Department must approve, in advance, any change to the Waste Tire Fee or any additional government tax and / or fee imposed on the Department and Eligible Users by the federal, State, or local governments subsequent to the Contract Formation date, per Section 2.17. It is the responsibility of the Contractor to request any government tax and / or fee change or addition in writing and received by the Department no later than sixty (60) days prior to the effective date of the proposed change in the Waste Tire Fee or addition of a new government tax and / or fee. The Contractor agrees to give the Department and Eligible Users the immediate benefit of any government tax and / or fee decrease or elimination. If previously approved by the Department, subsequent government taxes and / or fees imposed by the federal, State, or local governments in effect at the time of purchase shall be stated separately on the order and invoice as an additional charge to the Eligible User. It is the responsibility of the Contractor and Authorized Dealer to submit any additional government tax and / or fee and any related reports to the applicable government agency.

## **5.9 Authorized Price List**

The per Manufacturer / Brand Name Authorized Price List will be contained or referenced in Section 7.1, Price Sheet & Ordering Instructions. The Authorized Price List shall be based on the Section 7.1,



Price Sheet & Ordering Instructions, per Commodity Code and Line Number Department authorized GBPL (GBPL Date), GBPL Discount, and Optional Related Service Prices.

The Contractor will provide to the Department an Authorized Price List of all Tires and Optional Related Services available under and in accordance with the prices, discounts, requirements, specifications, terms, and conditions of the Contract. The Authorized Price List shall contain:

- Contract Number and Name
- Contract Period of Agreement, per Section 5.2
- Contractor Information:
  - Contractor's Organization Name,
  - Manufacturer / Brand Name(s),
  - Contractor's FEIN,
  - Contractor's Administrator Name and Title,
  - Contractor's Street Address,
  - Contractor's City, State and ZIP Code,
  - Contractor's E-Mail Address,
  - Contractor's Telephone Number, and
  - Contractor's Fax Number
- Contract Revision Date
- Price List Information (per Tire):
  - Applicable Commodity Code,
  - Manufacturer's Item Number,
  - Manufacturer's Description,
  - Manufacturer's Government Book Price from Department authorized GBPL,
  - Manufacturer's GBPL Date from Department authorized GBPL,
  - Applicable GBPL Discount Percentage (##.##%) from Section 7.1, Price Sheet & Ordering Instructions,
  - Department approved Net Tire Price or Net Down Price per Section 5.7, Ceiling Prices [Note: Net Tire Price shall be colored black and Net Down Price shall be colored red to denote their respective status.],
  - Waste Tire Fee per Section 5.8, Waste Tire Fee, and
  - Optional Related Service Prices per Section 5.7, Ceiling Prices, and from Section 7.1, Price Sheet & Ordering Instructions.
- Note: No additional or alternate Contractor terms and conditions shall be included on the Authorized Price List.

The Department shall distribute, in electronic format, the Authorized Price List document to be used by the Contractor upon Contract Formation, Section 2.17.

At no time will the per Tire Net Tire Price, as stipulated in Section 5.7, Ceiling Prices, and contained or referenced in Section 7.1, Price Sheet & Ordering Instructions, exceed the current respective Manufacturer's Government Book Price. Should the per Tire Net Tire Price exceed the current respective Manufacturer's Government Book Price, the Contractor shall provide a Net Down Price, as stipulated in Section 5.7, Ceiling Prices, lower than the current Manufacturer's Government Book Price.

The Contract's initial Authorized Price List shall be based on the Section 7.1, Price Sheet & Ordering Instructions, per Commodity Code and Line Number Department authorized GBPL (GBPL Date), GBPL Discount, and Optional Related Service Prices awarded under the Contract's solicitation. The Department authorized GBPL (GBPL Date) for Tires for use, in part, under the Authorized Price List may be updated from time-to-time as specified herein; however, the per Commodity Code and Line Number GBPL Discount and Optional Related Service Prices shall be firm for the length of the Contract, during both the original and any renewal term(s) of the Contract. Subsequent changes or updates to the Authorized Price List, if Department approved, shall be based on the Section 7.1, Price

Sheet & Ordering Instructions, per Commodity Code and Line Number Department authorized GBPL (GBPL Date), GBPL Discount, and Optional Related Service Prices, and in accordance with the requirements, specifications, terms, and conditions of the Contract.

During the Contract Period of Agreement, Section 5.2, including any renewal term(s), and no more often than two (2) times per calendar year, the Contractor may request updates to the GBPL for use, in part, under the Authorized Price List. The Contractor shall advise the Department of a request for a GBPL update in writing (email is acceptable) and received by the Contract Manager no later than sixty (60) days prior to the requested effective date of the proposed update. However, the Department will not consider a GBPL update request received by the Contract Manager within one hundred fifty (150) days of Contract termination, including any renewal term(s). The Contractor fully agrees that any GBPL update request must:

- be from the most current GBPL publicly listed and verifiable at the time of the requested GBPL update [Note: Obsolete Tires part of the current Authorized Price List and from a currently used GBPL but not available on the requested GBPL update may be included in the request for GBPL update; however, they must remain listed under the pre-existing Department authorized GBPL.];
- include an electronic copy of the complete draft Authorized Price List (per Section 5.9, Authorized Price List, Paragraph Two (2)) with the requested GBPL updates and compliant with the requirements herein, and one (1) clearly labeled hard-copy of each GBPL requested;
- fully offer, provide, and demonstrate through a separate electronic analysis document that the per common Tire (those Tires currently on the pre-existing Authorized Price List and the requested GBPL update) difference in the pre-existing Net Tire Price and requested GBPL updated Net Tire Price does not exceed the resulting percent change in the latest version of the U.S. Department of Labor, Producer Price Index (“PPI”) for Series ID: WPU071201; Not Seasonally Adjusted; Group: Rubber and plastic products; Item: Tires; Base Date: 8200; from the Base Month (Contract Formation Date, Section 2.17, or last GBPL update date, whichever is later) to the latest month for which non-preliminary data is available at the time of the requested GBPL update; and
  - The U.S. Department of Labor, PPI for Series ID: WPU071201; Not Seasonally Adjusted; Group: Rubber and plastic products; Item: Tires; Base Date: 8200 data is available at: <http://www.bls.gov/ppi/home.htm>. Scroll to and click on: “Series Report”; Enter Series ID “WPU071201” and scroll to and click on “Retrieve Data”.
  - Should the per Tire Net Tire Price difference exceed the resulting percent change in the latest version of the U.S. Department of Labor, Producer Price Index (“PPI”) for Series ID: WPU071201; Not Seasonally Adjusted; Group: Rubber and plastic products; Item: Tires; Base Date: 8200; from the Base Month (Contract Formation Date, Section 2.17, or last GBPL update date, whichever is later) to the latest month for which non-preliminary data is available at the time of the requested GBPL update, the Contractor shall offer, provide, and demonstrate a Net Down Price lower than the resulting percent change in the latest version of the U.S. Department of Labor, Producer Price Index (“PPI”) for Series ID: WPU071201; Not Seasonally Adjusted; Group: Rubber and plastic products; Item: Tires; Base Date: 8200; from the Base Month (Contract Formation Date, Section 2.17, or last GBPL update date, whichever is later) to the latest month for which non-preliminary data is available at the time of the requested GBPL update.
- be in accordance with the requirements, specifications, terms, and conditions of the Contract.

No updates to the GBPL are permitted without the prior written (email is acceptable) approval of the Department. The Department may, in its sole discretion, accept or deny any requested GBPL update. If a GBPL update request is approved by the Department, it shall not become effective for new orders placed by Eligible Users until the Department approved effective date and posting by the Department.

## 5.10 Authorized Dealer List

Only the Contractor and its Authorized Dealers shall market, sell, provide, and / or service Tires and Optional Related Services under and in accordance with the pricing, discounts, requirements, specifications, terms, and conditions of the Contract. To meet Eligible User's needs, the Contractor must maintain adequate statewide Authorized Dealer coverage to the satisfaction of the Department. Authorized Dealers may be Contractor owned and / or controlled, in whole or in part, or independently owned and controlled.

The Contractor shall manage and maintain an Authorized Dealer List of all Authorized Dealers permitted to market, sell, provide, and / or service Tires and Optional Related Services on behalf of the Contractor under and in accordance with the prices, discounts, requirements, specifications, terms, and conditions of the Contract. The Authorized Dealer List shall contain up-to-date:

- Contract Number and Name
- Contract Period of Agreement, per Section 5.2
- Contractor Information:
  - Contractor's Organization Name,
  - Manufacturer / Brand Name(s),
  - Contractor's FEIN,
  - Contractor's Administrator Name and Title,
  - Contractor's Street Address,
  - Contractor's City, State and ZIP Code,
  - Contractor's E-Mail Address,
  - Contractor's Telephone Number, and
  - Contractor's Fax Number
- Contract Revision Date
- Authorized Dealer Information (each):
  - Authorized Dealer's Organization Name,
  - Authorized Dealer's Street Address,
  - Authorized Dealer's City,
  - Authorized Dealer's State,
  - Authorized Dealer's ZIP Code,
  - Authorized Dealer's Telephone Number,
  - Authorized Dealer's Contact Name,
  - Authorized Dealer's MWBE Status (if available), and
  - Authorized Dealer's Product Availability, as follows (mark each that apply):
    - PA – Tires, Automobile, Radial, Standard Passenger
    - PP – Tires, Police Pursuit and Emergency High Speed, Radial
    - LT – Tires, Light Truck; Bias, Radial, and Steel Casing (Including Off-Road Applications)
    - MT – Tires, Medium Truck, Radial
    - OR – Tires, Off-Road; Bias and Radial
    - IF – Tires, Implement / Farm
    - SP – Tires, Specialty
- Note: No additional or alternate Contractor terms and conditions shall be included on the Authorized Dealer List.

The Department shall distribute, in electronic format, the Authorized Dealer List document to be used by the Contractor upon Contract Formation, Section 2.17.

For Dealers to be listed as Authorized Dealers on the Authorized Dealer List:

- A. The Dealer shall:
  - a. be and maintain status as an established Dealer in good standing of the Contractor per the Manufacturer's requirements (Note: Independent from the Contract.);

- b. not be included on any federal or State of Florida Convicted, Discriminatory, or Suspended Vendor List;
  - c. be up-to-date with any previous or existing contractual requirements, reports, or fees due to the State of Florida;
  - d. fully understand, agree to, and submit to the respective Contractor a complete, accurate, and unaltered Section 7.6, Authorized Dealer Agreement, for the respective Contractor;
  - e. update the Contractor regarding any change in Authorized Dealer Information [Note: If it has been determined to approve the Dealer as an Authorized Dealer.]; and
  - f. fully abide by the Contract prices, discounts, requirements, specifications, terms, and conditions. **NOTE: Failure to fully abide by the Contract prices, discounts, requirements, specifications, terms, and conditions shall be cause for Authorized Dealer suspension and / or removal from the Authorized Dealers List.**
- B. The Contractor shall:
- a. receive, manage, and maintain the Section 7.6, Authorized Dealer Agreement, for the Contract Period of Agreement, Section 5.2, including any renewals;
  - b. determine Dealer's compliance with Section 5.10, Authorized Dealer List, Paragraph Four (4), Sub-Sections A.a., A.d., and A.e.;
  - c. determine whether to approve or deny the Dealer as an Authorized Dealer;
  - d. ensure proper Authorized Dealer registration in the State of Florida's e-procurement vendor registration system (MyFloridaMarketPlace, or its successor system) [Note: If it has been determined to approve the Dealer as an Authorized Dealer.];
  - e. make any updates or changes to the Authorized Dealer List; and
  - f. electronically submit the most recent Authorized Dealer List revision to the Contract Manager.
- C. The Department shall:
- a. determine Dealer's compliance with Section 5.10, Authorized Dealer List, Paragraph Four (4), Sub-Sections A.b., A.c., and A.f.;
  - b. have the right of final refusal regarding any Contractor determination to approve or deny the Dealer as an Authorized Dealer; and
  - c. have the right of final refusal regarding any Contractor updates or changes to the Authorized Dealer List.

The Contractor shall update the Authorized Dealer List to reflect new or discontinued Authorized Dealers and to make necessary changes to specific Authorized Dealer Information (e.g., telephone number change, etc.). Any updates or changes to the Authorized Dealer List shall satisfy all criteria specified in the requirements, specifications, terms, and conditions of the Contract. The Department may, in its sole discretion, prohibit any update or change of the Authorized Dealer List, or direct a Contractor to undo any update or change already made. Updates and changes to the Authorized Dealer List shall not be deemed Contract Amendments.

The Contractor shall maintain all Section 7.6, Authorized Dealer Agreements received through the Period of Agreement, Section 5.2, including any renewals. In addition to any other listing requirements or limitations stipulated herein, the Contractor shall not list any Dealer on the Authorized Dealer List that has not submitted a complete, accurate, and unaltered Section 7.6, Authorized Dealer Agreement. Within fifteen (15) calendar days following the Contract's termination, the Contractor agrees to provide to the Contract Manager by mail all Section 7.6, Authorized Dealer Agreements received by the Contractor through the Contract's Period of Agreement, Section 5.2, including any renewals. Additionally, the Department may request and the Contractor shall provide to the Contract Manager by mail any specifically requested Section 7.6, Authorized Dealer Agreement within three (3) business days of the Department's request. The Contractor further agrees that any failure of the Contractor to provide to the Department the Section 7.6, Authorized Dealer Agreement as stipulated herein for any

Dealer currently or previously listed on the Authorized Dealer List shall result in the Contractor assuming all contractual responsibilities and obligations of the specific Authorized Dealer.

### **5.11 Acquisition by Eligible Users**

Eligible Users are encouraged to purchase any contracted Tire and Optional Related Service that will meet their needs, provide the lowest total cost (e.g., Net Tire Price plus selected Optional Related Services' Prices, factored by estimated product life and Warranty coverage), and be in accordance with the Eligible User's applicable procurement and fleet statutes, laws, ordinances, codes, rules, policies, and procedures. Any non-contract products and services (e.g., wheel alignment) must be ordered and invoiced as non-contract options separately from Contract purchases in accordance with the Eligible User's applicable procurement and fleet statutes, laws, ordinances, codes, rules, policies, and procedures.

Eligible Users may purchase Tires with any individual or combination of contracted Optional Related Services or without any contracted Optional Related Services. If Optional Related Services are purchased by the Eligible User, each related cost shall be added separately to the order and invoice as an additional charge to the Eligible User.

### **5.12 Purchasing Cards, Fuel Cards, and Fleet Cards**

The State of Florida and numerous Eligible Users have adopted and implemented various Purchasing Card, Fuel Card, and Fleet Card programs using different universal card formats (e.g., American Express, MasterCard, and Visa) and / or proprietary card formats (e.g., Fuelman, Voyager, Wright Express, etc.). Accordingly, the Authorized Dealer must have the ability to accept universal card formats including American Express, MasterCard, and Visa during the Contract term. Additionally, the Authorized Dealer may voluntarily choose to accept different proprietary card formats including Fuelman, Voyager, Wright Express, etc. during the Contract term. Authorized Dealers may receive payments from Eligible Users by Purchasing Cards, Fuel Cards, and Fleet Cards in the same manner as other credit / debit card purchases. Universal card format (e.g., American Express, MasterCard, and Visa) acceptance is mandatory, while proprietary card format (e.g., Fuelman, Voyager, Wright Express, etc.) acceptance is voluntary, but are not the exclusive methods of payment (e.g., purchase order). The method of ordering and payment shall be selected by the Eligible User.

### **5.13 Bulk Transportation and Delivery**

Eligible Users may choose to purchase Tires and Optional Related Services from the Contractor through an Authorized Dealer's physical business location, or may choose to purchase Tires and select Optional Related Services in bulk quantities from the Contractor through an Authorized Dealer who will have them transported and delivered to the Eligible User. Contractors and their Authorized Dealers shall do their best to maintain an adequate supply of all Commodities under the Contract in order to meet any requested deliveries.

For Bulk Transportation and Delivery, the Ceiling Price (per Section 5.7) shall additionally include all charges for packing, handling, freight, distribution, and inside delivery within the State of Florida. Additionally, Transportation and Delivery related charges, fees, or surcharges (e.g., fuel surcharge) are not permitted. Transportation and Delivery of bulk Tires shall be FOB Destination to any point within the State of Florida within thirty (30) calendar days after the Authorized Dealer's receipt of a purchase order, unless the Authorized Dealer and Eligible User negotiate a different Transportation and Delivery schedule and include it in the purchase order. An Authorized Dealer, within five (5) days after receiving a purchase order, shall notify the Eligible User of any potential delivery delays. Evidence of inability or

intentional delays shall be cause for Contract termination and / or Contractor and / or Authorized Dealer suspension.

Per Section 6.3, Commodity and Optional Related Services Specifications and Standards, Eligible Users may order the Optional Related Service of Tire Disposal. The Authorized Dealer, if ordered by the Eligible User as part of a bulk Tire order, must pickup and dispose of an equal number of used Tires. The pickup of the used tires may be required at a later date to be arraigned by the Authorized Dealer and Eligible User. The other specified Optional Related Services may or may not be available as part of a bulk Tire order.

This Section, 5.13, supersedes and replaces Section 4.11, Transportation and Delivery.

#### **5.14 Contract Sales Summary and Transaction Fee Reports**

**Contract Sales Summary:** The Contractor is required to provide annual fiscal year Contract Sales Summaries to the Contract Manager within fifteen (15) calendar days after the end of each fiscal year during the term of the Contract, including any renewals. The fiscal year is a twelve (12) month period beginning July 1 and ending on June 30 of each year. Contract Sales Summaries shall document all orders completed, for which payment was received, during the specified fiscal year. The Report shall specifically document the quantity and total sales by Commodity Code sold; including Tires, Waste Tire Fees, and Optional Related Services; differentiating between Eligible User types, State Agencies and Political Subdivisions.

The Contractor is also required to provide partial year Contract Sales Summaries under the same terms as the annual summaries for portions of the Contract term that occur outside a complete fiscal year. These partial summaries will be due July 15, 2009 for the period beginning on the Contract Formation date, per Section 2.17, and ending June 30, 2009, and within fifteen (15) calendar days after the termination of the Contract for the period beginning July 1 of the Contract's final year and ending on the Contract termination date. The Department may require additional ad hoc Contract Sales Summaries for various periods of time; the Contractor shall submit these specific ad hoc summaries within twenty (20) calendar days of notification by the Department.

Initiation and submission of the Contract Sales Summaries are to be the responsibility of the Contractor without prompting or notification by the Contract Manager. The Contractor will submit the completed Contract Sales Summary forms by email to the Contract Manager as stipulated. The Department shall distribute, in electronic format, the Contract Sales Summary forms to be used by the Contractor upon Contract Formation, Section 2.17.

**Transaction Fee Report:** The Contractor is required to submit monthly Transaction Fee Reports in electronic format. For information on how to submit Transaction Fee Reports online, please reference the detailed fee reporting instructions and Vendor training presentations available online at the Transaction Fee Reporting and Vendor Training subsections under Vendors on the MyFloridaMarketPlace website (located at <http://dms.myflorida.com/mfmp>). Assistance is also available with the Transaction Fee Reporting System from the MyFloridaMarketPlace Customer Service Desk at [feeprocessing@myfloridamarketplace.com](mailto:feeprocessing@myfloridamarketplace.com) or 866-FLA-EPRO (866-352-3776) between the hours of 8:00 AM to 5:30 PM Eastern Time.

#### **5.15 Lobbying**

In accordance with Section 216.347, Florida Statutes, and as provided herein, the Contractor and Authorized Dealer may not expend any State funds for the purpose of lobbying the legislature, the judicial branch, the executive branch, or any State Agency. This restriction does not apply to requests

of the Contractor and Authorized Dealer to provide any information relating to any aspect of this Contract, if requested by any legislative, judicial, or executive branch, or any State Agency.

## **5.16 Compliance with Laws**

The Contractor and Authorized Dealer shall comply with all laws, rules, codes, ordinances, and licensing requirements that are applicable to the conduct of its business, including those of federal, State, and local agencies having jurisdiction and authority. By way of non-exhaustive example, Chapter 287 of the Florida Statutes and Chapter 60A-1 of the Florida Administrative Code govern the Contract. By way of further non-exhaustive example, the Contractor shall comply with section 247A(e) of the Immigration and Nationalization Act, the Americans with Disabilities Act, and all prohibitions against discrimination on the basis of race, religion, sex, creed, national origin, handicap, marital status, or veteran's status. Violation of such laws shall be grounds for Contract termination.

## **5.17 Installation**

Where a Tire or Optional Related Service is required and ordered by the Eligible User, the Authorized Dealer shall be responsible for placing and installing the Tires and providing the Optional Related Service in the required locations at the Section 5.7, Ceiling Price, unless otherwise designated on the purchase order. Contractor's Authorized Price List shall clearly and separately identify any Tire and Optional Related Service prices. All materials used by the Authorized Dealer in the installation shall be of good quality and shall be free of defects that would diminish the appearance of the product or render it structurally or operationally unsound. Installation includes the furnishing of any equipment and materials required to install or replace the product in the proper location. No shop fees may be charged. The Authorized Dealer shall protect the site, vehicle, and equipment from damage and shall repair damages or injury caused during installation by the Authorized Dealer or its employees or agents. If any alteration, dismantling, etc., is required to achieve installation, the Authorized Dealer shall promptly restore the site, vehicle, and equipment to its original condition. The Authorized Dealer shall perform installation work so as to cause the least inconvenience and interference with Eligible Users and with proper consideration of others on site. Upon completion of the installation, the site, vehicle, and equipment shall be left clean and in a neat and unobstructed condition, with everything in satisfactory repair and order.

This Section, 5.17, supersedes and replaces Section 4.12, Installation.

## **5.18 Employees, Subcontractors, and Agents**

All Contractor or Authorized Dealer employees, subcontractors, or agents performing work under the Contract shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Contractor or Authorized Dealer, as applicable, shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under the Contract must comply with all security and administrative requirements of the Eligible User and shall comply with all controlling laws and regulations relevant to the services they are providing under the Contract. The State may conduct, and the Contractor or Authorized Dealer, as applicable, shall cooperate in, a security background check or otherwise assess any employee, subcontractor, or agent furnished by the Contractor or Authorized Dealer. The State may refuse access to, or require replacement of, any personnel for cause, including, but not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an Eligible User's security or other requirements. Such approval shall not relieve the Contractor or Authorized Dealer, as applicable, of its obligation to perform all work in compliance with the Contract. The State may reject and bar from any facility for cause any of the Contractor's or Authorized Dealer's employees, subcontractors, or agents.

This Section, 5.18, supersedes and replaces Section 4.32, Employees, Subcontractors, and Agents.

#### **5.19 Not Applicable Standard Requirements, Specifications, Terms, and Conditions**

The standard requirements, specifications, terms, and conditions collectively contained in the State of Florida's General Contract Conditions [PUR1000 (10/06)], as provided in Section 4.0, General Contract Conditions [PUR1000 (10/06)], are required for inclusion by Rule 60A-1, Florida Administrative Code. However, the following standard requirements, specifications, terms, and / or conditions contained in Section 4.0, General Contract Conditions [PUR1000 (10/06)], are not applicable to the Contract:

- Section 4.4(d), Trade In.
- Section 4.5, Additional Quantities.
- Section 4.39, Leases and Installment Purchases.

Any standard requirement, specification, term, or condition listed as not applicable by this Section 5.19, Not Applicable Standard Requirements, Specifications, Term, and Conditions, will not be physically deleted, and shall not result in the re-numbering or re-labeling of subsequent section numbers, letters, or other designating characters, symbols, or identifiers.

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**SECTION 6.0**  
**TECHNICAL SPECIFICATIONS**

**CONTENTS:**

- 6.1 DEFINITIONS**
- 6.2 ELIGIBLE TIRES**
- 6.3 COMMODITY AND OPTIONAL RELATED SERVICES SPECIFICATIONS AND STANDARDS**
- 6.4 TESTING**
- 6.5 WARRANTY**
- 6.6 FEDERAL AND STATE STANDARDS**

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## 6.1 Definitions

The Definitions found and referenced in the Special Conditions, Section 5.1, shall apply to this Section 6.1, Definitions.

## 6.2 Eligible Tires

Tires offered under the Contract shall be classified under ten (10) Commodity Codes, which are listed and described as follows:

863-200-375: Tires, Implement / Farm  
863-600-350: Tires, Off-Road, Bias  
863-600-380: Tires, Off-Road, Radial  
863-700-200: Tires, Automobile, Radial, Standard Passenger  
863-700-400: Tires, Police Pursuit and Emergency High Speed, Radial  
863-800-100: Tires, Light Truck, Bias (Includes Off-Road Applications)  
863-800-205: Tires, Light Truck, Radial (Includes Off-Road Applications)  
863-800-250: Tires, Light Truck, Steel Casing (Includes Off-Road Applications)  
863-800-800: Tires, Medium Truck, Radial  
863-900-100: Tires, Specialty

Retread or recap Tires are not eligible and shall not be permitted, included, or available under the requirements, specifications, terms, and conditions of the Contract.

## 6.3 Commodity and Optional Related Services Specifications and Standards

The following specifications and standards form a part of these specifications except as modified or noted herein.

All Commodities and Optional Related Services must comply with the following:

- All Commodities supplied shall be new, unused, of current or recent production, and of the latest design and construction;
- All Commodities supplied shall be equivalent to those currently being produced and used as original equipment by motor vehicle and mobile equipment manufacturers;
- All Commodities supplied and Optional Related Services performed shall comply with current legal, customary, reasonable, and prudent standards of professionalism and care in the industry;
- All Commodities supplied and Optional Related Services performed shall be designed, constructed, equipped, installed, and performed to be fully suitable for their intended used and service;
- All Commodities supplied and Optional Related Services performed shall comply with current applicable federal and State of Florida motor vehicle, mobile equipment, legal, safety, and environmental standards and requirements; and
- All Commodities supplied and Optional Related Services performed shall meet the requirements, specifications, terms, and conditions herein.

Additionally, Commodities must conform to the latest revision of the applicable specifications / standards cited below and shall be listed on the applicable federal qualified products list:

- Federal Specification CATL-1922 for Passenger Car, Light Truck, and Medium Truck Tires;
- Federal Specification CATL-1923 for Off-Road Tires;
- Federal Specification ZZ-1619C for Agricultural Tires;
- Federal Specification ZZ-T-410F for Industrial / Specialty Tires;

- Rubber Manufacturers Association recommended standards;
- Tire and Rim Association size, speed, and capacity standards; and
- Motor Vehicle Safety Standard No. 109 labeling requirements.

Additionally, Optional Related Services must comply with the following:

- **Tire Disposal:** Per Tire service for the proper removal (if necessary) and disposal of used Tires in compliance with legal, customary, reasonable, prudent, and required standards of professionalism and care in the industry. This is not a mandated government tax or fee, but an optional service and subsequent charge to remove (if necessary) and properly dispose of Tires. All used Tires must be disposed of in accordance with all applicable federal, State, and local requirements and regulations.
- **Tire Mounting:** Per Tire service for the proper removal of a used Tire (if necessary) and mounting of the new Tire in compliance with legal, customary, reasonable, prudent, and required standards of professionalism and care in the industry.
- **Tire Valve:** Per Tire service for the installation of a new, unused, of current production, and of latest design and construction rubber or metal valve stem for use with a Tire in compliance with legal, customary, reasonable, prudent, and required standards of professionalism and care in the industry.
- **Tire Balance:** Per Tire service for computerized dynamic balancing of a Tire, including any required weights, in compliance with legal, customary, reasonable, prudent, and required standards of professionalism and care in the industry.

**Delivery and / or performance of non-conforming Commodities and / or Optional Related Services may be cause for Contract and / or Agreement termination.**

#### 6.4 Testing

Samples of delivered Commodities and Optional Related Services may be selected at random by the Department or Eligible User and tested for compliance with these specifications using the following standards:

- ASTM Standard F1922, Test Method-for Tires, Pneumatic, Vehicular Highway;
- ASTM Standard F1923, Test Method-for Tires, Pneumatic, Vehicular Low Speed, Off Highway; and
- Any other standards which are customary, reasonable, prudent, or required in the industry at the time of testing.

**Delivery and / or performance of non-conforming Commodities and / or Optional Related Services may be cause for Contract and / or Agreement termination.**

#### 6.5 Warranty

The Manufacturer's Standard Warranty shall at a minimum cover all Commodities under the Contract. The Manufacturer's Standard Warranty is required to provide coverage against defective material, workmanship, and failure to perform in accordance with the required performance criteria. The Manufacturer's Standard Warranty coverage must be identical to or exceed the most inclusive of those normally provided for the Commodities specified herein that are sold to any state or local governments.

The Authorized Dealer's Standard Warranty shall at a minimum cover all Optional Related Services performed under the Contract. The Authorized Dealer's Standard Warranty is required to provide coverage against defective material, workmanship, and failure to perform in accordance with the required performance criteria. The Authorized Dealer's Standard Warranty coverage must be identical

to or exceed the most inclusive of those normally provided for the Optional Related Services specified herein that are sold to any state or local governments.

Should the Manufacturer's Standard Warranty or the Authorized Dealer's Standard Warranty conflict with any requirements, specifications, terms, or conditions of the Contract, the Contract requirements, specifications, terms and conditions shall prevail. The Manufacturer's Standard Warranty and the Authorized Dealer's Standard Warranty terms and conditions are not part of the Contract requirements, specifications, terms, and conditions.

## **6.6 Federal and State Standards**

It is the intent of the Department that all specifications herein are in full and complete compliance with all federal and State of Florida laws, requirements, and regulations applicable to the type and class of Commodities and contractual services being provided. This includes, but is not limited to, Federal Motor Vehicle Safety Standards ("FMVSS"), Occupational Safety and Health Administration ("OSHA"), Environmental Protection Agency ("EPA") Standards, and State of Florida laws, requirements, and regulations that apply to the type and class of Commodities and contractual services being provided. In addition, any applicable federal or State legislation that should become effective during the term of the Contract, including any renewals, regarding the Commodities and contractual services' specifications, safety, and environmental requirements shall immediately become a part of the Contract's requirements. The Contractor and Authorized Dealer must meet or exceed any such requirements of the laws and regulations. If an apparent conflict exists, the Contractor and Authorized Dealer must contact the Contract Manager immediately.

**Delivery and / or performance of non-conforming Commodities and / or Optional Related Services may be cause for Contract and / or Agreement termination.**

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**SECTION 7.0**  
**PRICE SHEET & ORDERING INSTRUCTIONS AND FORMS**

**CONTENTS:**

- 7.1 PRICE SHEET & ORDERING INSTRUCTIONS**  
(MICROSOFT EXCEL™ ATTACHMENT REQUIRING SEPARATE DOWNLOAD; SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)
- 7.2 SOLICITATION PREPARATION CHECKLIST**  
(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)
- 7.3 MANUFACTURER'S CERTIFICATION**  
(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)
- 7.4 SAVINGS / PRICE REDUCTIONS**  
(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)
- 7.5 CONTRACT SIGNATURE PAGE**  
(PLEASE NOTE: THIS DOCUMENT IS PROVIDED FOR REFERENCE PURPOSES AND IS NOT REQUIRED TO BE SUBMITTED AS PART OF A SOLICITATION RESPONSE. HOWEVER, SHOULD THE DEPARTMENT DETERMINE TO MAKE AWARD, SUBMITTAL OF THIS DOCUMENT SHALL BE REQUIRED. ANY SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)
- 7.6 AUTHORIZED DEALER AGREEMENT**  
(PLEASE NOTE: THIS DOCUMENT IS PROVIDED FOR REFERENCE PURPOSES AND IS NOT REQUIRED TO BE SUBMITTED AS PART OF A SOLICITATION RESPONSE. HOWEVER, SHOULD THE DEPARTMENT DETERMINE TO MAKE AWARD, USE OF THIS DOCUMENT SHALL BE REQUIRED.)
- 7.7 CERTIFICATION OF DRUG-FREE WORKPLACE**  
(SUBMITTED ORIGINAL(S) MAINTAINED BY THE DEPARTMENT OF MANAGEMENT SERVICES.)

**[The remainder of this page is intentionally left blank (other than footer information).]**

## 7.2 Solicitation Preparation Checklist

The Solicitation Preparation Checklist is a guide to assist the Respondent in verifying the completeness of their response. The Solicitation Preparation Checklist does not relieve the Respondent of the responsibility of ensuring that all requirements of the solicitation are met with submittal of their response. Check off each of the following as you comply:

\_\_\_\_\_ The Respondent has fulfilled all Sales Summary, Usage Fee, and Transaction Fee reporting and payment requirements as specified in the requirements, terms, and conditions of all previous or existing agreements with State of Florida agencies.

\_\_\_\_\_ Download, read, understand, and agree to the entire solicitation, including all attachments (ITB No. 18-863-000-S; Tires: Sections 1.0 through 7.7 of the solicitation, and the MyFloridaMarketPlace RFX Info tab contents).

\_\_\_\_\_ Review and abide by the Timeline, Section 1.2 of the solicitation.

\_\_\_\_\_ If necessary, review the MyFloridaMarketPlace Sourcing Tool Online Training Guide and / or receive assistance from the MyFloridaMarketPlace Customer Service Desk at 866-FLA-EPRO (866-352-3776) or [vendorhelp@myfloridamarketplace.com](mailto:vendorhelp@myfloridamarketplace.com).

\_\_\_\_\_ Submit any questions via the MyFloridaMarketPlace Q&A Board, no later than as specified in the Timeline, Section 1.2 of the solicitation.

\_\_\_\_\_ View the Department's answers to the submitted questions as posted in any Addendum or Amendment to the solicitation on the MyFloridaMarketPlace Sourcing Tool and / or Vendor Bid System.

\_\_\_\_\_ Download the Price Sheet & Ordering Instructions (Section 7.1), review carefully, enter required discounts, pricing, and information on the Price Sheet & Ordering Instructions, and upload the Price Sheet & Ordering Instructions to the MyFloridaMarketPlace Sourcing Tool as required.

\_\_\_\_\_ Provide answers to all required questions within the MyFloridaMarketPlace Sourcing Tool.

\_\_\_\_\_ Submit response using the MyFloridaMarketPlace Sourcing Tool.

\_\_\_\_\_ Mail any required documents and forms specified in Section 3.8, Submittal of Response, of the solicitation documents to the attention of:

**Christopher P. Walker, FCCM**  
**Purchasing Analyst**  
**Division of State Purchasing**  
**Department of Management Services**  
**4050 Esplanade Way, Suite 360**  
**Tallahassee, FL 32399-0950**

The outer packaging shall clearly state Solicitation Title, Solicitation Number, and Solicitation Opening Date and Time.

**7.3 Manufacturer's Certification**

This is to certify that \_\_\_\_\_  
Organization Name

is the authorized Manufacturer of \_\_\_\_\_  
Manufacturer / Brand Name(s)

BY: \_\_\_\_\_

DATE: \_\_\_\_\_

MANUFACTURER NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

TELEPHONE NUMBER(S): \_\_\_\_\_

E-MAIL: \_\_\_\_\_

AUTHORIZED EMPLOYEE NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

**NOTE:** THIS MANUFACTURER'S CERTIFICATION FORM MUST BE EXECUTED BY AN AUTHORIZED EMPLOYEE OF THE MANUFACTURER ONLY. DEALERS / REPRESENTATIVES ARE NOT AUTHORIZED TO EXECUTE THIS MANUFACTURER'S CERTIFICATION FORM. FAILURE TO SUBMIT THIS MANUFACTURER'S CERTIFICATION FORM WITH THE RESPONSE AS REQUIRED SHALL RESULT IN THE DISQUALIFICATION OF THE RESPONSE.

**7.4 Savings / Price Reductions**

The Respondent is required to furnish the percent (%) savings price offered compared to MSRP / GBPL, retail, list, published, or other usual and customary prices that would be paid by the purchaser without benefit of a contract resulting from this solicitation.

DATE \_\_\_\_\_

Competitive prices offered in Section 7.1, Price Sheet & Ordering Instructions, provide *[Insert Savings % for Commodities Offered in Table Below]* % savings off of the MSRP / GBPL, retail, list, published, or other usual and customary prices for Commodities:

COMMODITY CODE NO.	COMMODITY CODE DESCRIPTION	% SAVINGS OFF MSRP / GBPL, ETC.
863-200-375	Tires, Implement / Farm	%
863-600-350	Tires, Off-Road, Bias	%
863-600-380	Tires, Off-Road, Radial	%
863-700-200	Tires, Automobile, Radial, Standard Passenger	%
863-700-400	Tires, Police Pursuit and Emergency High Speed, Radial	%
863-800-100	Tires, Light Truck, Bias (Includes Off-Road Applications)	%
863-800-205	Tires, Light Truck, Radial (Includes Off-Road Applications)	%
863-800-250	Tires, Light Truck, Steel Casing (Includes Off-Road Applications)	%
863-800-800	Tires, Medium Truck, Radial	%
863-900-100	Tires, Specialty	%
<b>TOTAL AVERAGE:</b>		%

**HOW CAN WE VERIFY THE CLAIMED SAVINGS** (example: retail or other usual and customary prices published at [URL], or other source of benchmark prices [supply documents])?

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AUTHORIZED SIGNATURE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

RESPONDENT NAME: \_\_\_\_\_

IF CONTRACT AWARDED, STATE PURCHASING ANALYST / SPECIALIST TOOK THE FOLLOWING STEPS TO VERIFY THE SAVINGS OFFERED:

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WHAT WERE THE RESULTS? \_\_\_\_\_

PURCHASING ANALYST / SPECIALIST: \_\_\_\_\_

PUR 7064 (Rev 2/04)

**7.5 Contract Signature Page**

**CONTRACT**

This Contract, effective the last date signed below, is by and between the State of Florida, Department of Management Services ("Department"), an agency of the State of Florida with offices at 4050 Esplanade Way, Tallahassee, Florida 32399-0950, and the entity identified below as Contractor ("Contractor").

The Contractor responded to the Department's Invitation to Bid ("ITB") No. 18-863-000-S; Tires. The Department has determined to accept Contractor's offer and to enter into this Contract in accordance with the specifications, requirements, terms, and conditions of the solicitation. The specific products and services awarded to Contractor, and the maximum rates Contractor may charge Eligible Users, are identified on the attached Price Sheet & Ordering Instructions, Section 7.1.

Accordingly, and in consideration of the mutual promises contained in the Contract documents, the Department and the Contractor do hereby enter into this Contract, which is a state term contract authorized by section 287.042(2)(a) of the Florida Statutes (2001). The term of the Contract begins on the Contract Formation Date, per Section 2.17, and expires February 29, 2012. The Contract consists of the following documents, which, in case of conflict, shall have priority in the order listed, and which are hereby incorporated as if fully set forth:

- Any written Amendments to the Contract
- This document, Section 7.5, Contract Signature Page
- Section 7.1, Price Sheet & Ordering Instructions
- Section 6.0, Technical Specifications
- Section 5.0, Special Conditions
- Section 4.0, General Contract Conditions [PUR1000 (10/06)]
- Section 3.0, Special Instructions to Respondents
- Section 2.0, General Instructions to Respondents [PUR1001 (10/06)]
- Any Purchase Order under the Contract
- Contractor's Response

\_\_\_\_\_  
 State of Florida, Date  
 Department of Management Services  
 By: Linda H. South, Secretary

Contractor Name: \_\_\_\_\_  
 Street Address or P.O. Box: \_\_\_\_\_  
 City, State, Zip: \_\_\_\_\_

(Seal)

\_\_\_\_\_  
 By: Date  
 Its:

**7.6 Authorized Dealer Agreement**

**AUTHORIZED DEALER AGREEMENT**

WHEREAS, The State of Florida (the "State"), Department of Management Services (the "Department") has entered into State Term Contract No. 863-000-10-1; Tires (the "Contract") with The Goodyear Tire & Rubber Company (the "Contractor") to provide Tires and Optional Related Services to Eligible Users resulting from State of Florida ITB No. 18-863-000-S; Tires.

WHEREAS, the complete Contract, as may be amended from time-to-time, can be viewed at: [http://dms.myflorida.com/business\\_operations/state\\_purchasing/vendor\\_information/state\\_contracts\\_agreements\\_and\\_price\\_lists/state\\_term\\_contracts/tires2](http://dms.myflorida.com/business_operations/state_purchasing/vendor_information/state_contracts_agreements_and_price_lists/state_term_contracts/tires2).

WHEREAS, specific individual Dealers will be listed by the Contractor as Authorized Dealers to market, sell, provide, and / or service Tires and Optional Related Services on the Contractor's behalf under and in accordance with the prices, discounts, requirements, specifications, terms, and conditions of the Contract.

WHEREAS, the Dealer fully understanding, agreeing to, completing, executing, and submitting this Section 7.6, Authorized Dealer Agreement to the Contractor desires to be listed and perform as an Authorized Dealer of the Contractor under and in accordance with the Contract.

NOW THEREFORE, the Dealer, if approved as an Authorized Dealer of the Contractor, agrees to abide by the prices, discounts, requirements, specifications, terms, and conditions of the Contract, consisting of the following documents, which, in case of conflict, shall have priority in the order listed, and which are hereby incorporated as if fully set forth:

- Any written amendments to the Contract
- This document, Section 7.6, Authorized Dealer Agreement
- Section 7.1, Price Sheet & Ordering Instructions
- Section 6.0, Technical Specifications
- Section 5.0, Special Conditions
- Section 4.0, General Contract Conditions [PUR1000 (10/06)]
- Section 3.0, Special Instructions to Respondents
- Section 2.0, General Instructions to Respondents [PUR1001 (10/06)]
- Any Purchase Order under the Contract
- Contractor's response

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Authorized Dealer Agreement as of the last date of execution below.

Dealer Name: \_\_\_\_\_  
Street Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

(Seal)

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

---

**DEALER INFORMATION**

Please complete and execute the signature area above, information fields below, and submit the complete Section 7.6, Authorized Dealer Agreement to the Contractor for determination.

Dealer's FEIN No.: \_\_\_\_\_

Dealer's Organization Name: \_\_\_\_\_

Dealer's Street Address: \_\_\_\_\_

Dealer's City, State and ZIP: \_\_\_\_\_

Dealer's Telephone Number: \_\_\_\_\_

Dealer's Contact Name: \_\_\_\_\_

Dealer's MWBE Status: \_\_\_\_\_

Dealer's Product Availability (mark each that apply):

- PA – Tires, Automobile, Radial, Standard Passenger
- PP – Tires, Police Pursuit and Emergency High Speed, Radial
- LT – Tires, Light Truck; Bias, Radial, and Steel Casing (Including Off-Road Applications)
- MT – Tires, Medium Truck, Radial
- OR – Tires, Off-Road; Bias and Radial
- IF – Tires, Implement / Farm
- SP – Tires, Specialty

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For Contractor's Use Only

- Approve (Date: \_\_\_\_\_)
- Deny (Date: \_\_\_\_\_)

Reason(s) for Denial: \_\_\_\_\_

**7.7 Certification of Drug-Free Workplace**

Section 287.087 of the Florida Statutes provides that, where identical tie offers are received, one preference shall be given to an offer received from a Respondent that certifies it has implemented a drug-free workforce program. Please sign below and return this form to certify that your business has a drug-free workplace program.

- 1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- 2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
- 3) Give each employee engaged in providing the commodities or contractual services that are under the solicitation a copy of the statement specified in Subsection (1).
- 4) In the statement specified in Subsection (1), notify the employees, as a condition of working on the commodities or contractual services that are under the solicitation, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any State, for a violation occurring in the workplace no later than five (5) days after such conviction.
- 5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community by any employee who is so convicted.
- 6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign the statement, I certify that this firm complies fully with the above requirements. False statements are punishable at law.

DATE: \_\_\_\_\_

ORGANIZATION NAME: \_\_\_\_\_

BY: \_\_\_\_\_

Authorized Signature

Print Name and Title