Virginia Sheriffs' Association

Vehicle and Motorcycle Procurement Program

Invitation for Bids

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Section I

Pre-Bid Procedures

1.0 PURPOSE

The Virginia Sheriffs' Association (VSA) invites interested vendors, including Dealers, to submit responses in accordance with these solicitation documents. The Virginia Sheriffs' Association will serve as the "Contract Administrator" in the solicitation process and the administration of the resulting contract. The purpose of this Invitation for Bids is to establish a contract with manufacturer's authorized dealers for the purpose of providing vehicles, motorcycles, and equipment on a "no trade-in basis" to members of the VSA.

Trade-ins are not addressed in this Program. If an agency has a desire to offer vehicles/motorcycles/equipment for trade to the dealer, the agency and dealer may do so at their sole discretion, separate and apart from this Program.

1.1 THE VIRGINIA PUBLIC PROCUREMENT ACT

The VSA is not a "public body." However, for the purposes of this agreement, the Virginia Sheriffs' Association will follow the intent and spirit of the Virginia Public Procurement Act (VPPA), Section 2.2-4300 *et seq*. of the Code of Virginia 1950, as amended, except as otherwise specified in this Program.

1.2 JOINT AND COOPERATIVE PROCUREMENT

According to Virginia Code, Chapter 636 §2.2-4304, any Virginia public body may participate in, sponsor, or purchase from the cooperative purchasing contract of the Virginia Sheriffs' Association for the purpose of increasing efficiency or reducing administrative expenses in any acquisition of goods.

The VSA, its officials and staff are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between the Contractor and any other public bodies, and in no event shall the VSA, its officials or staff be responsible for any costs, damages or injury resulting to any party from use of a VSA contract.

The VSA assumes no responsibility for any notification of the availability of the contract for use by other public bodies, but the Contractor may conduct such notification.

1.3 DEFINITIONS

The following terms are defined as follows:

a) Vehicle and Motorcycle Procurement Program (VMPP) – A program managed by the Virginia Sheriffs' Association for the purpose of providing public procurement of quality goods (motor vehicles, motorcycles and equipment) to support effective and efficient government ensuring the prudent use of public funds. The primary goals of the VMPP are:

- Providing efficient delivery of products and services;
- Obtaining best value through competition;
- Offering fair and equitable competitive contracting opportunities for suppliers; and
- Maintaining public confidence through ethical and transparent procurement practices.

b) Contract Administrator – A Virginia Sheriffs' Association representative who is responsible for the procurement process and the administering of the resulting contracts for the Vehicle and Motorcycle Procurement Program.

c) Cooperative Bid Coordinator – A Virginia Sheriffs' Association representative who is responsible for the day-to-day operations of the Vehicle and Motorcycle Procurement Program.

d) Vehicle and Motorcycle Procurement Advisory Committee (VPAC) – A body composed of sheriffs, sheriffs' office staff members, and employees of other local governmental agencies in Virginia, and any other person who the VSA identifies as subject matter experts that will assist with the development of bid specifications and evaluation of bid responses.

e) Contractor – The bidder that has been awarded a contract and agrees to sell vehicles, motorcycles and equipment under the requirements, specifications, and the Invitation for Bids (IFB), to eligible Customers, as defined herein.

f) Customer – An eligible Customer as defined in Section 1.5.

g) VendorLink – The Virginia Sheriffs' Association's Bid Award System located https://www.myvendorlink.com/common/login.aspx which is the online system created for the submission of all bids, required documents and tabulation of bid results for the specifications contained herein.

h) Invitation for Bids – A solicitation document used in the competitive sealed bidding procedure.

i) Bid – the response submitted by a bidder to an Invitation for Bids.

j) Responsible Bidder – means an equipment or vehicle/motorcycle dealer who has the capability, in all respects, to perform fully the contract requirements and the moral and business integrity and reliability that will assure good faith performance, and who has been prequalified, if required.

k) Responsive Bidder – means an equipment or vehicle/motorcycle dealer who has submitted a bid that conforms to the requirements of the Invitation for Bids.

l) Zones – Predetermined regions within Virginia that are used to calculate delivery fees for bidding purposes. (See Zone Map)

m) VSA Vehicle/Motorcycle Specification Notebook – A resource notebook provided to dealers that contains all vehicle/motorcycle specifications.

n) Add Option – A product or service provided by the vehicle/motorcycle manufacturer.

o) Fleet Final Order Date – The model year cutoff date by which vehicles/ motorcycles must be ordered as set forth by the manufacturer.

p) Upfitter – An individual or business who installs non-factory options on a vehicle, motorcycle, or equipment.

q) Subcontractor or 3rd Party – An individual or business that contract to perform part or the entirety of another individual or business's contract.

The Contractor shall not assign, sublet, subcontract or transfer any of its interest in the contract without written consent of the VSA. Nothing herein shall be construed as creating any personal liability on the part of any employee, officer, or agent of the VSA, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the VSA and Contractor.

r) MSRP – The manufacturer's suggested retail price, which 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. The following are acceptable sources of current MSRPs and MSRP lists for use in the submission of bids and the resulting contract:

1) Manufacturer's computer printouts; Ford – DORA, General Motors – GM AUTOBOOK; or approved equivalent

2) Chrome Systems, Inc.'s PC Carbook (for instance, PC Carbook Plus and PC Carbook Fleet Edition)

3) Manufacturer's Annual US Price Book

4) Manufacturer's official website

5) Edmunds (no subscription required)

(Note some of the above resources require a paid subscription)

s) Special Service Vehicle/Motorcycles (SSV) – Specialized vehicles/motorcycles that are generally heavier duty vehicles/motorcycles that may come with specialized option packages that are used for specific tasks but are not recommended by the manufacturer for use as pursuit vehicles/motorcycles.

1.4 COOPERATIVE PROCUREMENT

This procurement program is being conducted by the VSA in accordance with the provisions of the Code of Virginia, Section 2.2-4304, as amended except as modified herein. The VSA, its officials and staff are not responsible for placement of orders, invoicing, payments, contractual disputes, or any other transactions between the Contractor and any other public bodies, and in no event shall the VSA, its officials or staff be responsible for any costs, damages or injury resulting to any party from use of a VSA contract.

The VSA assumes no responsibility for any notification of the availability of the contract for use by other public bodies, but the Contractor may conduct such notification.

1.5 ELIGIBLE CUSTOMERS OF VMPP

The VMPP is available to all Virginia public bodies.

All Customers are bound by their individual governing purchasing ordinances, rules and regulations. All Contractor/dealers are governed by their manufacturer's agreement. See also Section 1.8 Funding.

1.6 TERM OF CONTRACT

If awarded, a contract shall remain in effect for a one-year period or until the next official VSA contract is awarded. A contract may be renewed by mutual agreement between the VSA and the Contractor, at the sole option and discretion of the VSA, for up to two additional consecutive years, on a year-to-year basis.

The VSA will award one contract that will remain in effect for one (1) year from the date of contract execution by the VSA Contract Administrator.

Contract renewals will only be executed when conditions indicate it is in the best interest of the VSA and the Customers.

In the event that a contract is continued beyond the term provided by mutual consent the contract may be extended up to 180 days at the discretion of the VSA, shall be carried out on a month-to-month basis only, and shall not constitute an implied renewal of the contract. Said month to month extension shall be upon the same terms of the contract and at the compensation and payment provided herein.

If the successful bidder is awarded a contract under this IFB, the prices quoted by the successful bidder on the bid forms shall remain fixed and firm during the term of the contract unless determined by the Contract Administrator that a change in price is in the best interest of the program.

Any approved price increases must be in accordance with §3.7 of this Invitation for Bids.

1.7 SHERIFFS' PURCHASING AUTHORITY

The sheriff does not necessarily have independent statutory authority to contract on behalf of or bind the resources of the county or city unless delegated this authority by the local governing body. Therefore, it may be necessary for the sheriff and/or an appropriate official of the local public body to sign any necessary agreements between the Contractor and Customer.

1.8 FUNDING

The continuation of the terms, conditions, and provisions of a resulting contract beyond June 30 of any year, the end of the public body's fiscal year, are subject to approval and ratification by the governing body and appropriations by them of the necessary money to fund said contract for each succeeding year. In the event of non-appropriation of funds, the contract shall be automatically terminated with no recourse for the Contractor.

1.9 COMMUNICATIONS

Communications between a bidder, its representative(s) and the VSA are limited to matters of process or procedure. Requests for additional information or clarifications must be made through electronic communication to the VSA Contract Administrator no later than ten (10) calendar days prior to the scheduled bid opening date; all electronic communication must be sent to jbennett@virginiasheriffs.org.

During this Invitation for Bids period, all questions/communication will only be accepted through electronic communication directly to the VSA Contract Administrator. All electronic communication should be addressed to jbennett@virginiasheriffs.org. All questions and communications, and their associated responses will be posted to the VSA Procurement website.

The VSA will issue replies to inquiries and any other corrections or amendments it deems necessary in written addenda issued prior to the deadline for submitting a bid.

Bidders should not rely on representations, statements, or explanations other than those made in this Invitation for Bids or in any written addendum to this IFB. Bidders should verify with the VSA Contract Administrator prior to submitting a bid that all addenda have been received.

1.10 CONTRACTOR'S AUTHORIZATION TO TRANSACT BUSINESS

A. The VSA shall include in every written contract a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Refer to The Virginia State Corporation Commission Registration Information Form.

B. Any bidder described in subsection A that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the chief executive of a local public body.

C. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

D. The VSA may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

1.11 VEHICLES/MOTORCYCLES, LICENSED DEALER

Bidders must be licensed with the Virginia Motor Vehicle Dealer Board at the time of bid submission. Proof of membership is required at the time of a bidder's electronic bid submission.

1.12 REFERENCES

Bidders shall furnish the names, addresses, and telephone numbers on company letterhead of a minimum of five (5) firms or government organizations for which the Contractor is currently providing or has provided similar services. Two (2) of the references must be government related. A dealer participating for the first time in government fleet sales/bidding may be considered exempt from this requirement if they can demonstrate to the satisfaction of the VSA Contract Administrator that they have the appropriate facility, staffing, and financial resources to support the contract should they receive an award. See Section 1.13 Bidder Qualifications.

1.13 BIDDER QUALIFICATIONS

In order for bids to be considered, bidders to the Virginia Sheriffs' Association's Vehicle and Motorcycle Procurement Program (VMPP) must submit with their bid, evidence that they are qualified to satisfactorily perform the specified service and provide the specified good. Evidence shall include all information necessary to certify that the bidder maintains a permanent place of business; is an authorized distributor of the items specified in its bid; has not had sustained claims filed against the bidder or the bidder's firm; and has provided similar type products or services previously. The evidence also will consist of listings of contracts for similar products or services that have been provided to public and private sector clients and letter(s) from the manufacturer that the bidder is an authorized distributor for the proposed manufacturer. See Section 1.21 Submittal of Bid.

1.14 DRUG FREE WORKPLACE

This provision only applies to contracts valued in excess of $10,000:

During the performance of this contract, the contractor agrees to:

(i) provide a drug-free workplace for the contractor's employees;
(ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;
(iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and
(iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each Subcontractor or vendor.

For the purposes of this section, ''drug-free workplace'' means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

1.15 EMPLOYMENT DISCRIMINATION

The bidder certifies that he/she is in compliance with all local, state, and federal laws, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin or other protected categories.

1.16 COMPLIANCE

1) All public bodies shall provide in every written contract that the contractor does not and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

2) Compliance with state law; foreign and domestic businesses authorized to transact business in the Commonwealth.

A. All public bodies shall include in every written contract a provision that a contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law.

B. Pursuant to competitive sealed bidding or competitive negotiation, all public bodies shall include in the solicitation a provision that requires a bidder organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 to include in its bid or proposal the identification number issued to it by the State Corporation Commission. Any bidder that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid or proposal a statement describing why the bidder is not required to be so authorized.

C. Any bidder described in subsection B that fails to provide the required information shall not receive an award unless a waiver of this requirement and the administrative policies and procedures established to implement this section is granted by the Director of the Department of General Services or his designee or by the chief executive of a local governing body.

D. Any business entity described in subsection A that enters into a contract with a public body pursuant to this chapter shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract.

E. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

1.17 LATE BIDS

Any electronic bid(s) received after the time and date specified on the IFB Calendar will be rejected by the VSA and the VendorLink System and all documentation will be returned to the bidder unopened. An electronic bid is considered received by

the VSA when a bidder saves its base vehicle/motorcycle and option pricing, and all required documents on the VendorLink website. All electronic bids are final at the date and time the VendorLink website closes.

The responsibility for submitting an electronic bid before the stated time and date deadline is solely and strictly the responsibility of the bidder. The VSA is not responsible for delays caused by any occurrence.

Each bidder is responsible for ensuring that his or her electronic bid is submitted before the deadline outlined in the IFB Calendar. If an electronic bid is not submitted by the bid due date and time specified on the IFB Calendar, the bid is rejected.

1.18 BID SUBMISSION

Electronic Bid – As noted on the published IFB Calendar, all electronic bid submissions must be submitted through the VendorLink system before electronic bid closing.

All electronic bids will remain sealed until the time of the public bid opening, as published on the IFB calendar. At this time, all submitted bids will be read aloud. The only bids read aloud will be those submitted electronically through the VendorLink system.

1.19 VendorLink

VendorLink is the Virginia Sheriffs' Association's Bid Award System. Access to the system requires a login and user password. To obtain a login and password, bidders must complete an annual registration provided through VendorLink.

All prospective bidders are encouraged to download and review the bid submission checklist and reference guide located on the VendorLink website each year to obtain the most current terms and conditions of the contract as well as instructions for entering bid specifications and pricing.

Questions regarding the use of the VendorLink website, including those regarding VendorLink username and passwords, should be addressed to Kaylyn Mitman at kmitman@virginiasheriffs.org.

1.20 VSA COMMISSION FEES FOR ALL SPECIFICATIONS

Bidders must include a three-quarters-of-one percent (.0075) commission fee in their base bid prices, and their quotes and pricing for all additional equipment items (Add Options), excluding any state regulated fees including tags. The three quarters of one percent fee will be incorporated into, and made a part of, the total invoice amount and shall not be treated or added as a separate line item. Fees are based on the total invoice cost of the new vehicle, motorcycle or piece of equipment. No other commission fee(s) will be applicable to any transaction relative to the contract.

1.21 SUBMITTAL OF BID

Bidders must submit their bid electronically via the Virginia Sheriffs' Association's Bid Award System (VendorLink).

Bidders must bid a requested VSA option by first offering the requested item if available from the factory. If this option is satisfied by the addition of a manufacturer's package that contains other items, then it must be indicated in VendorLink in the option line and verifiable via audit. If the package offered to satisfy the request requires another factory option, then that factory option must also be indicated and referenced. If the item is a package and available as a free-flowing option to the base vehicle/motorcycle, then the manufacturer's MSRP governs and becomes the ceiling price. If the item is a package that changes the manufacturer's model number, then the recognized MSRP computation will govern and define the ceiling price.

Bid prices are to be rounded down to the nearest dollar. Bids can be entered more than once, however, only the last bid entered into the VendorLink system before the bid solicitation is closed will be considered in the award process.

For information on late bids please refer to §1.17 LATE BIDS.

The Specifications and Bid Form, available on the VendorLink website, must be completed with the dealership name, contact person, telephone number and mobile phone number.

Separate bid packages must be submitted for each individual dealership for which a bid was submitted through VendorLink. If a dealership is bidding on separate

vehicles/motorcycles from different manufacturers, the dealership must submit separate bid packages for each manufacturer.

Bid packages not including all required documentation, listed below, may result in a bidder's disqualification from the bidding process. See section 1.23 – Responsiveness to the Requirements of the IFB.

The bid package must include:

- Invitation for Bids Cover Page. Bidder must complete the Cover Page in its entirety and must indicate by signature on the form that the bidder has read and understands the provisions contained in this Invitation for Bids.

- Proof of membership with the Virginia Vehicle Dealer Board

- Specifications and Bid Form

- The Virginia State Corporation Commission Registration Information Form

- The VSA Vehicle Procurement Program's Drug Free Workplace Form

- Insurance Checklist

- Manufacturer Certification Form

- A printed copy of the submitted bid (printed after final electronic bid submission takes place)

- Manufacturer's print out (Ford – "Dora"; General Motors – "GM Autobook"; or approved equivalent) for each vehicle or motorcycle on which a bid is submitted. The manufacturer's print-out shall indicate an order code for the manufacturer's base model, all standard equipment, and any optional components required to provide the base vehicle/motorcycle as outlined in the Invitation for Bids. Dealer installed aftermarket components are required to meet the base vehicle/motorcycle specified and must be identified, in writing, on the manufacturer's printout.

- For specifications that do not produce a manufacturer's print-out, the bid package must include manufacturer's documentation that includes standard

equipment and such other information that provides verification that such item meets the base specifications.

- Pricing sheet for emergency vehicle/motorcycle lighting (when applicable)

- By virtue of its bid submission, bidder acknowledges its obligation to sell vehicles/motorcycles in all Zones for which it is awarded.

1.22 PUBLIC BID OPENING PROCESS AND ELECTRONIC POSTING OF BIDS

Sealed bids will be opened at the date, time, and place indicated in the IFB Calendar and will be evaluated thereafter. Bidders may attend, but it is not a requirement.

The VSA Cooperative Bid Coordinator will electronically post the initial bid tabulation results and any and all awards on the VendorLink website according to the timetable outlined in the IFB Calendar.

If the posting of the initial bid tabulation results is delayed, the VSA Cooperative Bid Coordinator will send electronically a message to all bidders a notice of the delay and will give a revised date for posting of results.

1.23 RESPONSIVENESS TO THE REQUIREMENTS OF THE IFB

All bids will be evaluated to determine the responsiveness to the requirements of the IFB. Bids that do not meet all requirements of this solicitation, or fail to provide all required information, documents, or materials may be rejected as nonresponsive.

A bidder must have the necessary facilities, personnel, and expertise, and must be prepared, if requested by the VSA Contract Administrator, to present evidence of such experience, including evidence of EVT certified technicians to perform installation of emergency lighting for applicable specifications.

The VSA Contract Administrator reserves the right to investigate or inspect at any time during the evaluation period, and the contract period, whether the product, qualifications, or facilities offered by the bidder meet the contract requirements.

Bidders, whose bids, past performance, or current status do not reflect the capability, integrity, or reliability to fully and in good faith perform the requirements

of the contract may be rejected. The VSA Contract Administrator may use discretion in determining which bids meet the requirements of this solicitation, and which respondents are responsive and responsible.

The VSA Contract Administrator may use discretion in accepting or rejecting any and all bids, or separable portions thereof, in whole or in part; and/or make or limit awards either as individual items or as a total combined bid; and to waive any informality if determined that doing so will serve the best interest of the VSA and other public bodies of the Commonwealth of Virginia. The VSA Contract Administrator may reject any responses not submitted in the manner specified by solicitation documents.

1.24 BASIS FOR AWARD

The VSA Contract Administrator will award the contract to the lowest responsive and Responsible Bidder by specification, by manufacturer, and by zone.

The Add Options in the IFB shall be for informational purposes only. See Section 1.58 Option Pricing for additional criteria.

The VSA reserves the right to make multiple awards if deemed in the best interest of the VSA.

1.25 ZONE BIDDING

Bidders are allowed to direct their bid to one or more geographic Zones depicted on the zone map. A space within the bid section for each specification in VendorLink is provided for the bidder to indicate zone bidding. In the absence of any indication to the contrary, all bids will be considered statewide. In addition to the four Zones, as indicated on the zone map, all dealers will have a fifth option to bid in a separate category that will not charge the Customer a delivery fee.

1.26 TAX EXEMPTIONS FOR CUSTOMERS

All state and federal tax exemptions applicable to the units of public bodies of the Commonwealth of Virginia will apply. It is the Customer's responsibility to comply with any federal, state, and local tax requirements.

1.27 TAX EXEMPTIONS FOR THE VSA

The VSA is a 501(c) (6) organization and exempt from all Federal Excise and State Taxes. The association's tax id number is 54-1020904.

1.28 SPECIFICATIONS

All vehicles, motorcycles and equipment listed in the VSA Vehicle and Motorcycle Specifications Notebook shall be the manufacturer's current basic production model, and shall, at a minimum, be equipped with ALL standard factory equipment in accordance with the manufacturer's latest literature. Bidders must supply a unit that either meets or exceeds all the requirements included in the applicable detailed specifications.

All bidders will be required to bid on the models listed in each designated specification and not on any variation of the specifications.

All vehicles, motorcycles and equipment offered to satisfy an Invitation for Bids must be designed, constructed, and installed to be fully suitable for their intended use and service.

All current contract year vehicle and motorcycle specifications can be found in the VSA Vehicle and Motorcycle Specification Notebook and on the VendorLink website.

1.29 POLICE RATED VEHICLES

Police rated vehicles are vehicles that have been reviewed by one or more of the nationally recognized authorities (see below) on Police Vehicle Testing Program/Evaluation. These vehicles were historically referred to as "Pursuit rated."

These evaluations have not been confirmed or independently verified by the VSA and are not designed to recommend a particular product to a Customer but to serve as a resource of information on vehicles which are currently being offered for police service. To see the full detailed report, utilize the links below.

The level of importance placed on these evaluations is a subjective decision which should be made by each Customer based upon that Customer's needs.
For the purpose of this bid specification the recognized authorities are as follows:

STATE OF MICHIGAN
Department of State Police and Department of Technology, Management and Budget
Police Vehicle Evaluation Program
http://www.michigan.gov/documents/msp/VehicleTestBook2014_448152_7.pdf

LOS ANGELES SHERIFF'S DEPARTMENT
Law Enforcement Vehicle Test and Evaluation Program
http://shq.lasdnews.net/shq/vehicle_testing/2014_vehicle.pdf

1.30 VEHICLES AND MOTORCYCLES

Vehicle/motorcycle shall meet all applicable Federal, Commonwealth of Virginia, and OSHA safety requirements.

Inspection as required by Title 46.1, Chapter 4, Article 10 of the Code of Virginia shall be performed by dealer prior to delivery.

Service preparation shall be performed by the dealer, according to manufacturer's specifications. If vehicles/motorcycles are delivered without proper dealer preparation, it shall be the dealer's responsibility to pick up, service and re-deliver.

Dealer logos of any type shall not be allowed on vehicles/motorcycles purchased.

Any previous or current safety issues concerning recalls by the manufacturer must be addressed prior to delivery and acceptance of vehicles/motorcycles.

1.31 FACTORY ORDERED OPTIONS

All factory ordered options are to be "original equipment manufacturer (OEM) and factory installed" unless otherwise noted by the Contractor and acknowledged in writing by both the Contractor and the Customer. Verbal agreements will not be recognized.

1.32 FEDERAL AND STATE VEHICLE/MOTORCYCLE MANUFACTURING STANDARDS

In addition to the equipment set out by the specifications listed in the VSA Specifications Notebook, vehicles/motorcycles shall be equipped with all standard equipment as specified by the manufacturer for this model. All vehicles,

motorcycles and equipment offered to satisfy this Invitation for Bids must comply with all Environmental Protection Agency emission standards, federal motor vehicle safety standards as established by the US Department of Transportation, National Highway Transportation Safety Administration, regarding the manufacture of motor vehicles/motorcycles.

1.33 EXECUTION OF BID

The bid must contain a manual signature of a dealership's authorized representative in the space provided on the Invitation for Bids Cover Page. Failure to properly sign and submit the Invitation for Bids Cover Page will invalidate the bidder's submission and it shall NOT be considered for award. All bid forms must be completed in pen and ink or typewritten.

Vehicle and Motorcycle specifications CANNOT be changed or altered in any way. Altered bids will not be considered after the VendorLink system closes for bids. If a clarification of the submitted bid is required, the request for clarification shall be in electronic format and should be addressed to jbennett@virginiasheriff.org.

1.34 NO BID

If a dealer is not submitting a bid the dealer should respond to the VSA by returning the No Bid Form and explain the reason for not bidding.

1.35 MISTAKES

Mistakes discovered following bid opening but prior to award:

If there is a significant and obvious disparity between the prices of the lowest apparent Responsive Bidder and other bidders, the low bidder may be contacted by the VSA to confirm the bid price. This does not relieve a bidder from the responsibility for the submission of a correct bid. If the bidder then alleges a mistake in the bid and can provide clear and convincing evidence that supports the existence of a clerical error to the satisfaction of the VSA, the bid may be withdrawn and not re-bid in accordance with the withdrawal procedure provided herein.

Mistakes discovered after award:

Bids containing mistakes by bidders shall not be withdrawn after award of a contract or issuance of a purchase order, unless determined otherwise by the Contract Administrator.

1.36 CONDITION AND PACKAGING

Any item offered or shipped shall be the latest new and current model offered (most current production model at the time of this Invitation for Bids). All shipping containers shall be suitable for storage or shipment, and all prices shall include standard commercial packaging.

1.37 UNDERWRITERS' LABORATORIES (UL)

Unless otherwise stipulated in the IFB, all manufactured items and fabricated assemblies shall be U.L. listed or re-examination listed where such has been established by U.L. for the item(s) offered and furnished.

1.38 EQUIVALENTS

Unless otherwise provided in the Invitation for Bids, the name of a certain brand, make or manufacturer shall not restrict bidders to the specific brand, make or manufacturer named and shall be deemed to convey the general style, type, character, and quality of the article desired. Any article that the VSA in its sole discretion determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted.

1.39 GOVERNING LAW

In event of any dispute under the Program the parties agree to the exclusive jurisdiction of the Circuit Court of the City of Williamsburg and County of James City, Virginia and waive any and all objections to such venue.

1.40 PATENTS AND ROYALTIES

The bidder, without exception, shall indemnify and hold harmless the VSA, its officers, members, and its employees from liability of any nature or kind, including without limitation, costs, expenses, and attorneys' fees, for, or on account of, any copyrighted, patented, or unpatented invention, process, or article manufactured or used in the performance of the contract, including its use by the VSA.

If the bidder uses any design, device, or materials covered by letters, patents, or copyright, it is mutually understood and agreed, without exception, that the bid prices shall include all royalties or cost arising from the use of such design, device, or materials in any way involved in the work.

1.41 PROPRIETARY INFORMATION

Trade secrets or proprietary information submitted by a bidder or contractor in connection with a procurement transaction or prequalification application submitted pursuant to subsection B of § 2.2-4317 of the VPPA shall not be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.); however, the bidder, or contractor shall (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is necessary.

1.42 PERMITTED CONTRACTS WITH CERTAIN RELIGIOUS ORGANIZATIONS; PURPOSE; LIMITATIONS

The Virginia Sheriffs' Association does not discriminate against faith-based organizations.

1.43 AMERICANS WITH DISABILITY ACT (ADA)

To request ADA material in accessible format, sign language interpreters, information on access for persons with disabilities, and/or any accommodation to review any document or participate in any VSA-sponsored proceeding, please contact Jason Bennett at 919-459-8195 or jbennett@virginiasheriffs.org.

1.44 BID TABULATIONS

Bidders desiring a copy of VendorLink's bid tabulation may request same by enclosing a self-addressed stamped envelope with the bid along with a written request for the bid tabulation.

1.45 REQUESTS FOR CLARIFICATION AND ADDENDA

In case of doubt as to the meaning or intent of any items contained in the IFB, inquiry should be made to the VSA Contract Administrator prior to the Pre-Bid Conference via e-mail or at the Pre-Bid Conference in person. Telephone clarifications will not be accepted, and no clarifications will be accepted after the date listed in the IFB Calendar. All requests for clarification from bidders and VSA responses will be posted on the VSA Procurement website by the date listed on the IFB Calendar.

The submission of a bid presumes the bidder thoroughly understands the terms and the specifications.

If any person contemplating submission of a Bid under this Invitation for Bids is in doubt as to the meaning of the specifications in the IFB or any part thereof, the

Bidder must submit to the VSA at least ten (10) calendar days prior to the scheduled Bid opening, a request for clarification. All such requests for clarification must be made in writing and the person submitting the request will be responsible for its timely delivery.

Any questions or clarifications concerning this Invitation for Bids shall be submitted in writing by mail or facsimile to the Virginia Sheriffs' Association, Vehicle and Motorcycle Procurement, 901 East Byrd Street, Suite 1301, Richmond, Virginia 23219 or by email to jbennett@virginiasheriffs.org with the IFB Title referenced on all correspondence.

Any interpretations will be made only by Addendum issued by the VSA Contract Administrator. All addenda will be posted on the VendorLink website.

All Bidders will be required to acknowledge any formal addenda by signing in the space provided on the formal addendum and including the signed acknowledgement along with the bidder's bid package. Failure to acknowledge receipt of addendum by a bidder will deem its Bid non-responsive.

1.46 COLLUSION

Related parties mean bidders, or the principals thereof, which have a direct or indirect ownership interest in another bidder for the same contract, or in which a parent company or the principals thereof of one (1) bidder has a direct or indirect ownership interest in another bidder for the same contract.

Bids from Related Parties – Where two (2) or more related parties each submit a bid for any contract, such bids or bids shall be presumed to be collusive. Bids found to be collusive shall be rejected.

The foregoing presumption may be rebutted by presentation of evidence as to the extent of ownership, control, and management of such related parties in the preparation and submittal of such bids.

Bidders who have been found to have engaged in collusion will be suspended for a minimum of one contract year. The bidder may be permanently barred if collusive bidding occurs more than once in a five-year period. Any contract resulting from collusive bidding may be terminated for default.

Dealerships and their representatives may submit multiple bids without conflict of collusion as long as the bid submitted is not from the same manufacturer and product line. Dealerships which share the same ownership may submit multiple

bids also without conflict of collusion as long as the bidders are not in the same region, as shown in the zone map, with the same manufacturer and product line.

1.47 GRATUITIES

Bidders shall not offer any gratuities, favors, or anything of monetary value to any official, employee, or agent of the VSA.

1.48 SIGNED BID CONSIDERED AN OFFER

The signed bid shall be considered an offer on the part of the bidder, which offer shall be deemed accepted upon approval and award by the VSA. In case of default on the part of the Contractor after the acceptance of the bidder's offer, the VSA may procure the items or services from other sources and hold the bidder or Contractor responsible for any excess cost occasioned or incurred thereby.

1.49 TIE BIDS

In the case of a tie bid, preference shall be given to goods produced in Virginia, goods or services or construction provided by Virginia persons, firms or corporations; otherwise, the tie shall be decided by lot.

1.50 DELIVERY TIME

Bidders shall specify on the attached Bid Form, the delivery time (in calendar days) for each item. The delivery time must be a firm delivery period; ranges will be accepted, i.e.: 12-14 days. Delivery time may be considered a factor in making an award.

Delivery shall be within the regular business working hours of the Customer, Monday through Friday, excluding holidays.

1.51 RIGHT TO AUDIT

The Contractor must establish and maintain a reasonable accounting system that enables the Virginia Sheriffs' Association to readily identify the Contractor's fleet sales.

VSA, and its authorized representatives, shall have the right to audit, examine, and make copies of, or extracts from, all of Contractor's financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this program. Similarly, all government sales and potential eligible Customers' information will be available for review and kept by or under the control of the Contractor, including, but not limited to, records kept by the

Contractor, its employees, agents, assigns, successors, and Subcontractors. The records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files (including successful and unsuccessful bids, bid recaps, etc.); all paid vouchers including those for out of pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; memoranda; and correspondence.

The Contractor, shall, at all times during the term of a contract and for a period of three (3) years after the completion of a contract, maintain the above referenced records, together with supporting or underlying documents and materials. The Contractor shall at any time during the three (3) year period, whether during or after completion of this contract, and at Contractor's own expense make these records available for inspection and audit (including copies and extracts of records as required) by the VSA when requested. The records shall be made available to the VSA (subject to a three-day written notice) during normal business hours.

VSA, at its option, may select the Contractor's office or place of business or an offsite location for the audit. The VSA may also allow the Contractor to provide financial records, together with the supporting or underlying documents and records, via email or telephone for audit at a time and location that is convenient for the VSA.

The Contractor shall ensure the VSA has this same right of access to information with Contractor's employees, agents, assigns, successors, and Subcontractors. The obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the Contractor and any Subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the Contractor's obligation to the VSA.

The costs of any audits conducted under the authority of this right to audit, if not addressed elsewhere, will be borne by the VSA unless certain exemption criteria set forth below are met. If the audit identifies underreporting, overpricing, or overcharging (of any nature) by the Contractor to the Customer in excess of three (3%) of the total contract billings, the Contractor shall reimburse the VSA for the total costs of the audit. If the audit discovers findings related to fraud, misrepresentation, or nonperformance, the VSA may recoup all of the costs of the audit work from the Contractor.

Any adjustments and /or payments that must be made as a result of any such audit or inspection of the Contractor's invoices and/or records shall be made within a

reasonable amount of time (not to exceed 90 days) from presentation of the VSA's findings to the Contractor.

1.52 WITHDRAWALS OF BIDS

A bidder may withdraw its bid from consideration if the price bid was substantially lower than the other bids due solely to a mistake in the bid, provided the bid was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake, and was actually due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

If a bid contains both clerical and judgment mistakes, a bidder may withdraw his bid from consideration if the price bid would have been substantially lower than the other bids due solely to the clerical mistake, that was an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of a bid that shall be clearly shown by objective evidence drawn from inspection of original work papers, documents and materials used in the preparation of the bid sought to be withdrawn.

B. The bidder shall give notice in writing of his claim of right to withdraw his bid within two business days after the conclusion of the bid opening procedure and shall submit original work papers with such notice; or

Under these procedures, the mistake shall be proved only from the original work papers, documents and materials delivered as required herein. The work papers, documents and materials submitted by the bidder shall, at the bidder's request, be considered trade secrets or proprietary information subject to the conditions of subsection F of § 2.2-4342.

C. No bid shall be withdrawn under this section when the result would be the awarding of the contract on another bid of the same bidder or of another bidder in which the ownership of the withdrawing bidder is more than five percent.

D. If a bid is withdrawn in accordance with this section, the lowest remaining bid shall be deemed to be the low bid.

E. No bidder who is permitted to withdraw a bid shall, for compensation, supply any material or labor to or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid was submitted.

F. The VSA shall notify the bidder in writing within five business days of its decision regarding the bidder's request to withdraw its bid. If the VSA denies the withdrawal of a bid under the provisions of this section, it shall state in such notice the reasons for its decision and award the contract to such bidder at the bid price, provided such bidder is a Responsible Bidder and Responsive bidder. At the same time that the notice is provided, the VSA shall return all work papers and copies thereof that have been submitted by the bidder.

1.53 EXCEPTIONS TO IFB

Should a proposed bid not be able to meet one (1) or more of the requirements set forth in this Invitation for Bids, and the bidder is proposing alternatives to said requirements, the bidder must notify the VSA Cooperative Bid Coordinator's Office in writing at least ten (10) days prior to the deadline for submission of bids. The VSA reserves the right to revise the scope of services via addendum prior to the deadline for receipt of bids.

1.54 PRICE MATCHING PREFERENCE

This Program does not recognize a Price Matching Preference for any out of state bidders.

1.55 MODIFICATION OF THE CONTRACT

The contract shall not be amended, modified, or otherwise changed except by the written consent of the Contractor and the VSA given in the same manner and form as the original signing of the contract.

1.56 SPECIFICATION EXCEPTIONS, OMISSIONS OR ERRORS

Specifications are based on the most current manufacturer literature available. Bidder should immediately notify the VSA Contract Administrator of any defects in the specifications or required submittal documents. All notifications of defect must be in writing and submitted prior to the request for clarification deadline.

Bidder is required to indicate in its bid submissions those options which require additional equipment or model upgrade to obtain the original option. Bidder must also identify those options that are available as a part of a package or group. The factory codes listed in the "Prices" section of the Special Conditions must be used.

Failure of a bidder to comply with these provisions will result in bidder being held responsible for all cost required to bring the vehicle or motorcycle into compliance with the IFB specifications.

1.57 OPTION PRICING

Prices for options submitted by the bidder for emergency vehicle/motorcycle lighting and equipment must include all applicable fees and charges not including installation. No additional charges and fees are allowable.

The bidder shall offer a minimum 6% discount on options which shall be below the Manufacturer's Standard Retail Pricing (MSRP) or manufacturer's published catalog price for any factory add options included in the bid submission. The amounts of discounts for each particular add option beyond the 6% discount shall be decided by the bidder.

When Add Options listed are included in the base vehicle/motorcycle, the bidder must submit options as "included" or "standard (STD)." The bidder must use proper factory codes for all factory Add Options. Options available through the factory MUST be bid and supplied to the Customer as factory options unless requested otherwise in writing by the Customer.

Options are intended to add or delete equipment and/or features from the base vehicle/motorcycle specification, and to allow for an upgrade or downgrade to a manufacturer's model with a slightly different engine size or horsepower, and as such, should not be made available for purchase separate from the base vehicle/motorcycle. Bidders shall NOT use add or delete options to create a piece of equipment that is different than the base unit called for in the specification.

The bidder must indicate in its bid submission any option requiring the purchase of other options, and also indicate options that are a part of another option.

The use of Options to facilitate the sale of an alternate Manufacturer's product, which is outside the scope of the written base specification, will be construed as

non-compliant and the bid will be rejected, in whole or part by the VSA Bid Coordinator.

Example – Bidder CANNOT include option upgrades that result in the selling of a vehicle or motorcycle on one specification that is offered as a separate specification in the IFB.

Dealers are required to submit all available factory option pricing through the VendorLink website at the time of the dealer's bid submission. A dealer's factory option pricing will not be a consideration when awarding a contract. A dealer's option pricing submission will only be used by the Customer when ordering vehicles or motorcycles from the Contractor.

1.58 FINANCIAL RESPONSIBILITY

The bidder affirms by his or her signature on the Invitation for Bids Cover Page that he or she:

- Has fully read and understands the scope, nature, and quality of work to be performed or the services to be rendered under this IFB and has the adequate facilities and personnel to fulfill such requirements.
- Accepts the financial responsibility associated with this IFB and declares that he or she has the access to capital (in the form of liquidity or credit lines) in order to meet the financial demands of such award. In assessing financial responsibility, Bidder shall consider items such as the specifications bid, the Zones bid, and the quantity of specifications bid, as well as timing of payment from Customers, which can be 45 days from receipt of invoice.
- Assumes full responsibility that all vehicles or motorcycles delivered to the Customer are free and clear of all outside liens, encumbrances, security interests apart from the dealer floor plan or other dealer inventory finance security interest.

Section II

Post Award Procedures

2.0 AUTHORITY TO RESOLVE PROTESTED BIDS AND PROPOSED AWARDS

(a) Right to Protest – Any bidder who is aggrieved in connection with the solicitation for bids or contract award may protest to the VSA Contract Administrator or his or her designee. Protests will be evaluated and resolved under the process set forth below:

(1) Any protest concerning the bid specifications, requirements, and/or terms must be made within seven (7) business days (for the purpose of this section "business day" means a day other than Saturday, Sunday, or a national holiday) prior to the VendorLink system opening for bids. Such protest must be made in writing to the VSA Contract Administrator, or his or her designee, via electronic communication (such as facsimile transmission and/or email) and such protest shall state the particular grounds on which it is based and shall include all pertinent documents and evidence. No protest shall be accepted unless it complies with the requirements of this section. Failure to timely protest bid specifications, requirements, and/or terms is a waiver of the ability to protest the specifications, requirements, and/or terms.

The VSA Contract Administrator will submit the protest to the VPAC for consideration. The VPAC will consider and rule on the protest. The opening of the VendorLink system for bids will not be delayed, absent extraordinary circumstances, due to the protest. The determination of the VPAC is final and binding.

(2) Protests challenging the award of the contract must be made in writing within five (5) business days following the release of the Bid Award Announcement. This award protest will be submitted to the VSA Contract Administrator or his or her designee. All bidders will be notified in writing (which will be transmitted by electronic communication and through the VendorLink website) of any protests following the release of the Bid Award Announcement.

Protests must state the particular grounds on which it is based and shall include all pertinent documents and evidence. No bid protest will be accepted unless it complies with the requirements of this section.

The Bid Award protest will be immediately forwarded, with all supporting documentation, to the VPAC. The decision of the VPAC will be based solely on the written protest and all accompanying documents. The Bid Award execution of the contract will not be delayed by the consideration of the VPAC. The VSA Contract Administrator will ensure the bid award protest was timely made and will present the protest to the VPAC within three (3) business days.

Failure to timely protest the award of the contract constitutes a waiver of the ability to protest the award.

(b) Once the bid award protest has been resolved by the VPAC, the VPAC shall promptly issue a decision by electronic communication. The decision shall specifically state the reasons for the action taken.

(c) Additionally, a copy of each decision by the VPAC shall be mailed by certified mail, immediately after a decision is made, to the protestor.

2.1 TERMINATION FOR DEFAULT

If through any cause within the reasonable control of the Contractor, it shall fail to fulfill in a timely manner, or otherwise violate any of the covenants, contracts, or stipulations material to the agreement, the VSA shall thereupon have the right to terminate the contract.

In that event, the Customer shall compensate the Contractor in accordance with the agreement for all services performed and goods provided prior to termination, net of any costs incurred by the Customer as a consequence of the default.

Notwithstanding the above, the Contractor shall not be relieved of liability to the Customer for damages sustained by the Customer by virtue of any breach of the agreement by the Contractor, and the Customer may reasonably withhold payments to the Contractor for the purposes of set off until such time as the exact amount of damages due to the Customer from the contractor is determined.

All re-procurement cost may be charged against the defaulting Contractor and may result in immediate removal from the VMPP.

2.2 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.

Section III

Post Award Performance

3.0 DISPUTES

In case of any doubt or difference of opinion as to the items to be furnished hereunder, the matter will be referred to the VPAC and its decision shall be final and binding on both parties.

In the event of a conflict between the IFB documents, the order of priority of the bid documents shall be as follows: Any agreement resulting from the award of this IFB (if applicable); then Addenda released for this IFB with the latest Addendum taking precedence; then the IFB; then the Awardee's bid.

3.1 SEVERABILITY

In the event any provision of this contract is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of the contract which shall remain in full force and effect and enforceable in accordance with its terms.

3.2 ASSIGNMENT

The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this contract, including any or all of its right, title, or interest therein, or his or its power to execute such contract to any person, company or corporation without prior written consent of the VSA.

3.3 TERMINATION FOR CONVENIENCE OF THE VSA

The VSA, for its convenience, can terminate a contract, in whole or part, without cause by giving written notice to the Contractor of such termination, which shall become effective 90 days following receipt by the Contractor of such notice.

If a contract is cancelled, all documents related in any way to the bid and award will be provided to the VSA. All vehicles, motorcycles and materials shall be dispensed with by agreement between Contractor and Customer.

The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to fulfill the remaining contract requirements, if

any. The Contractor shall not be entitled to recover any lost profits that the Contractor expected to earn on the balance of the agreement or cancellation charges.

Any payments to the Contractor shall be only to the total extent of the Customer's liability for goods or services delivered prior to the date of notice to terminate the contract.

3.4 INSURANCE AND INDEMNIFICATION

Contractor shall be fully liable for the actions of its agents, employees, partners, or Subcontractors and shall fully indemnify, defend, and hold harmless the Virginia Sheriffs' Association, the participating agencies, and their officers, agents, and employees from suits, actions, damages, and costs of every name and description, including legal counsels' 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 bidder, 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 Virginia Sheriffs' Association, and participating agencies.

The Virginia Sheriffs' Association and any participating agencies will give the bidder written notice of any legal action or threatened legal action and the opportunity to take over and settle or defend any such action at the Contractor's sole expense. Contractor shall not be liable for any cost, expense or compromise incurred by the Virginia Sheriffs' Association, or participating agencies in any legal action without Contractor's prior written consent, which shall not be unreasonably withheld.

The Contractor shall be responsible for his or her work and every part thereof, and for all materials, tools, appliances and property of every description, used in connection with this particular project. He or she shall specifically and distinctly assume, and does so assume, all risks of damage or injury to property or persons used or employed on or in connection with the work and of all damage or injury to any person or property wherever located, resulting from any action or operation under the contract or in connection with the work.

The Contractor, at all times during the full duration of work under this contract, including extra work in connection with this project, shall meet the following requirements:

- Maintain automobile liability insurance including property damage covering all owned, non-owned, or hired automobiles and equipment used in connection with the work.

- No change or cancellation in insurance shall be made without thirty (30) days advance written notice to the VSA Contract Administrator.

- All insurance policies shall be issued by companies authorized to do business under the laws of the Commonwealth of Virginia and these companies must have a rating of at least a B+: VI or better per Best's Key Rating Guide, latest edition.

- Original signed certificates of insurance, evidencing such coverages and endorsements as required herein shall be filed with and approved by the VSA Contract Administrator before work is started.

- The certificate must state the bid number and title. Upon expiration of the required insurance, the Contractor must submit updated certificates of insurance for as long a period as any work is still in progress.

It is understood and agreed that all policies of insurance provided by the Contractor are considered the primary coverage to any insurance or self-insurance the VSA possesses that may apply to a loss resulting from the work performed in this contract.

All policies issued to cover the insurance requirements herein shall provide full coverage from the first dollar of exposure. No deductibles will be allowed in any policies issued on this contract unless specific safeguards have been established to assure an adequate fund for payment of deductibles by the insured. The adequacy of the fund must be approved by the VSA's Contract Administrator.

The liability insurance coverage shall extend to and include the following contractual indemnity and hold harmless agreement:

"The Contractor hereby agrees to indemnify and hold harmless the VSA, a Virginia non-stock 501(c)(6) corporation, its officers, agents, and employees from all claims for bodily injuries to the public in and up to the amount of $1,000,000 for per occurrence and for all damages to the property of others in and up to the amount of $1,000,000 per occurrence in accordance with the insurance requirement set out in the specifications of the IFB. This agreement includes costs of investigation,

all expenses of litigation, including reasonable legal counsel fees and the cost of appeals arising out of any such claims or suits because of any and all acts of omission or commission of any by the Contractor, his agents, servants, or employees, or through the mere existence of the project under contract."

The foregoing indemnity agreement shall apply to any and all claims and suits other than claims and suits arising out of the sole and exclusive negligence of the VSA, its officers, agents, and employees, as determined by a court of competent jurisdiction.

The Contractor will notify his or her insurance agent without delay of the existence of the Hold Harmless Agreement contained within and furnish a copy of the Hold Harmless Agreement to the insurance agent or carrier.

The Contractor will obtain and maintain contractual liability insurance in adequate limits for the sole purpose of protecting the VSA under the Hold Harmless Agreement from any and all claims arising out of this contractual operation.

The Contractor will secure and maintain garage, commercial general liability, and automobile liability policies of Subcontractors. All policies shall be made available to the VSA upon demand. Compliance by the Contractor and all Subcontractors with the foregoing requirements as to carrying of insurance and furnishing copies of the insurance policies shall not relieve the Contractor and all Subcontractors of their liabilities and obligations under any section or provisions of this contract. Contractor shall be as fully responsible to the VSA and the Customer for the acts and omissions of the Subcontractor and of persons employed by them as he is for acts and omissions of persons directly employed by him.

Insurance coverage required in the IFB shall be in force throughout the contract term. Should any Contractor fail to provide acceptable evidence of current insurance within seven days of receipt of written request at any time during the contract term, the VSA shall have the right to consider the contract breached and terminate the contract.

It is understood and agreed that the inclusion of more than one insured under these policies shall not restrict the coverage provided by these policies for an additional insured hereunder with respect to a liability claim or suit by another insured hereunder or an employee of such other insured and that with respect to claims against any insured hereunder, additional insured's hereunder shall be considered members of the public.

3.5 WARRANTY OF ABILITY TO PERFORM

The Contractor warrants that, to the best of its knowledge, at the time the contract is awarded 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 State Debarred Vendors list maintained by the Virginia Division of Purchases and Supply, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the VSA and the Customer in writing if its ability to perform is compromised in any manner during the term of the contract.

3.6 NON-CONFORMANCE TO CONTRACT CONDITIONS

Items may be tested for compliance with the specifications. Item(s) delivered that do not conform to the specifications may be rejected and returned at Contractor's expense. Any items not delivered as per the delivery date in the bid and/or purchase order may be purchased on the open market by the Customer. Any increase in cost may be charged against the Contractor.

3.7 OPTION TO RENEW

Any contract may be renewed for an additional two (2) years, on a year-to-year basis, if mutually agreed by both parties. VSA is not required to accept a price adjustment for the upcoming year. Any allowable adjustment in price would be effective for the next contractual period, not for the current period.

Prior to completion of each contract term, the VSA may consider an adjustment to price due to increases or decreases in the Consumer Price Index; but in no event will the prices be increased by a percentage greater than the percentage change reflected in the nationally published Consumer Price Index-Goods and Services (Automobile Category), computed 60 days prior to the anniversary date of the contract.

It is the Contractor's responsibility to request any pricing adjustment under this provision. For any adjustment to commence on the first day of any option period, the Contractor's request for adjustment shall be submitted 60 days prior to expiration of the then current contract term.

The Contractor adjustment request must clearly substantiate the requested increase. If no adjustment request is received from the Contractor within the 60-day period, the VSA will assume that the contractor has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period will not be considered.

The VSA reserves the right to accept the renewal adjustment or to allow the contract to terminate and re-advertise for bids, whichever is in the best interest of the VSA.

3.8 NON-PERFORMANCE

Contractor shall at all times during the contract term remain responsive and responsible to the Customer and the VSA. In determining Contractor's responsibility as a vendor, the VSA Contract Administrator shall consider all information or evidence which is gathered or comes to the attention of the agency which demonstrates the Contractor's capability to fully satisfy the requirements of the solicitation and the contract.

In some instances, Contractors may be required to develop corrective action plans to address contract deficiencies. In situations where there is evidence the Contractor, fleet sales manager or other representative has demonstrated egregious breaches of the contract or trust to either the VSA or the Customer, the contract will be terminated, and the dealer and its representative may be removed from future solicitations. An egregious breach of contract would be defined as one that would materially change the specifications of the contract or prevent the contracted vehicles/motorcycles/equipment from being delivered to the Customer in a timely manner.

Failure to abide by corrective action plans will result in the contract being terminated and the dealer, and dealer's representative being barred from future competitive bid solicitations at the discretion of the VPAC.

Examples of conditions that would justify termination include, but are not limited to:

- failure to perform the responsibilities of the contract
- refusal to accept orders during the contract period while manufacturer orders are still being accepted for current model year and/or the new year if the vehicle or motorcycle is price protected by the factory

- charging amounts exceeding MSRP on factory installed items and packages
- requiring the purchase of additional options over and above the base vehicle/motorcycle as a condition of acceptance of order
- providing aftermarket options where factory options are available without the consent of the Customer
- any misrepresentation of optional equipment or service as being "factory" that fails to meet the definition as described in this document
- any other practice deemed to be outside of the intent of the contract

Any Contractor, who is presented with a valid purchase order as a result of a contract award, is required and bound to accept such purchase order and deliver the product; regardless of whether the vehicle/motorcycle is a base model or includes options at a higher cost. The Contractor must deliver this vehicle/motorcycle regardless of profit or loss based on its respective bid. Failure to deliver said vehicles, motorcycles or equipment could result in the Customer and the VSA seeking damages for the difference in cost by ordering the product from another Contractor, plus any legal fees and damages that may be incurred in the process to facilitate a completed order.

All terms and conditions are applicable throughout the term of the contract and not any given "year, make or model" period.

Each report of a lost purchase order will be handled on a case-by-case basis.

3.9 FACTORY INSTALLED

Aftermarket parts, modifications and factory produced parts and components ordered as parts and installed by the Contractor, do not meet the requirements of "Factory Installed" components, and will be rejected for noncompliance with the requirements of the specification.

In the event a component (s) that does not meet the specifications is found to be installed on a vehicle/motorcycle before or after the vehicle/motorcycle has been accepted by the Customer, the Contractor shall be required to replace the vehicle/motorcycle with a vehicle/motorcycle that meets the required specifications, including all factory installed components. In the alternative, the Customer shall decide whether they will accept dealer installed components.

3.10 EQUITABLE ADJUSTMENT

The VSA may make an equitable adjustment in the contract terms or pricing at its discretion. Adjustments to pricing may occur for various reasons, such as availability of supply (i.e. material surcharge) and extreme and unforeseen volatility in the marketplace. Adjustments may be considered if all the following criteria exist:

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 per VSA's discretion.
4. The volatility so affects the Contractor that continued performance of the contract would result in a substantial loss for the Contractor

When a Contractor requests an adjustment, including but not limited to price increases, the following items must be submitted to the VSA Contract Administrator:

1. A letter of request for an adjustment from the Contractor, including the specification number and model listed in the contract, along with the requested changes
2. When requested adjustment is based on production cutoff of a currently listed model, a letter of affirmation from the manufacturer
3. When a requested adjustment includes model changes, manufacturer's documentation of items included in the proposed model must be submitted in order to evaluate if the proposed model meets the base specification
4. Currently published MSRP listing

A contract shall not be amended, modified, or otherwise changed except by the written consent of the Contractor and the customer given in the same manner and form as the original signing of the contract.

The Customer will be notified by the Contract Administrator of any price adjustment through electronic communication within one (1) business day. The Customer will have the option to continue with or cancel the purchase order based on the price adjustments.

3.11 PRE-DELIVERY SERVICES

To assure proper pre-delivery service, the Contractor shall provide, at time of delivery, a completed copy of the manufacturer's standard retail sale pre-delivery inspection form (examples are listed below)

- Chrysler New Preparation, Inspection and Road Test
- Ford Pre-Delivery Service Record
- GM New Vehicle Inspection Procedure
  (or manufacturer's latest pre-delivery form)

3.12 ORDER, DELIVERY, AND LIQUIDATED DAMAGES

A) Order

1) Eligible Customers shall issue a purchase order (PO) to the Contractor, and such purchase order shall bear the contract or bid number, specification number, Customer's federal identification number and contact information (phone number and email address). The purchase order shall be placed by the Customer directly with the Contractor and shall incorporate by reference the Invitation for Bids. Required delivery or due dates should be discussed between the Customer and the Contractor at the time of the PO. It is important to note that dealers do not have ANY control over production delays in schedules from the manufacturer.

2) The Customer is required to forward an executed copy of the purchase order to the Virginia Sheriffs' Association Cooperative Bid Coordinator (by email, fax, or hard copy) at the time the purchase order is released to the Contractor.

3) If a Contractor receives a purchase order for a specification for which they were not awarded, the Contractor must notify the Customer and the Contract Administrator and return the purchase order to the Customer within three (3) business days.

4) All vehicles/motorcycles ordered prior to the manufacturer's close of production shall be supplied in the manufacturer's next model run of that class vehicle/motorcycle even it is requires supplying a later model at the original bid prices.

5) The Contractor shall place a purchase order with its manufacturer within ten (10) business days after receipt of purchase order from the Customer. The Contractor shall assure that all orders are placed in full compliance with the specifications and purchase order.

6) It is the Contractor's responsibility to ensure that the vehicle/motorcycle ordered by the Customer is fully compatible with all ordered options and that the vehicle/motorcycle complies with all applicable manufacturer and industry standards. The Contractor's acceptance of a Customer's purchase order will indicate that the Contractor agrees to deliver a vehicle/motorcycle that will be fully compatible with all of its options.

7) Any changes that are required to bring a vehicle/motorcycle into compliance with its various options due to an incorrect order placed by the Contractor will be accomplished at the Contractor's expense.

8) A Confirmation of Order Form shall be completed by the Contractor and returned to the Customer placing the purchase order(s) within fourteen (14) calendar days after receipt of the Customer's purchase order.

Unless the actual date of delivery is specified (or the specified delivery date cannot be met), the number of days (in calendar days) required to make delivery after receipt of the Customer's purchase order must be indicated on this form.

Any additional information needed to complete this form should be obtained by contacting the Customer. The form may be modified to accommodate each Customer individually as necessary.

B. Delivery

1) Receipt of a vehicle/motorcycle by the Contractor is defined as acceptance of the vehicle/motorcycle(s) from a common carrier at the Contractor's place of business or any third party's place of business agreed upon by the Contractor and the manufacturer.

2) The Contractor shall complete delivery of the vehicle/motorcycle to the Customer as soon as practical after receipt of the

vehicle/motorcycle(s) from the manufacturer. Vehicles/motorcycles originating as an incomplete vehicle/motorcycles would be exempt.

3) Deliveries of less than 750 miles may be accomplished by driving the vehicle. When the delivery is accomplished by driving the vehicle, the driver must comply with the manufacturer's break-in requirements and all applicable traffic laws and ordinances. Any delivery of a police-rated vehicle must use an "Out of Service" cover on light bars. All deliveries in excess of 750 miles shall be made by transport, or otherwise approved by the purchasing agency. Incomplete vehicles would be exempt from the rules set forth in this paragraph.

4) At the Customer's option, a vehicle/motorcycle with more than 750 odometer miles may be rejected, or $0.51 cents per mile in excess of 750 miles may be deducted from the invoice. This requirement also applies to the redelivery of vehicles/motorcycles which were rejected upon delivery.

5) All fees must be included in the base price and prices shall be firm. Delivery is F.O.B. Destination, delivered to the Customer. In the event of a discrepancy between a unit bid price and an extension, the unit bid price will govern. All items delivered or installed at any location of the participating agencies must include all manufacturer's standard equipment and warranties.

6) Warranty Start Date – All warranties shall begin at the time of delivery and final acceptance by the Customer. If the Customer needs to reset the warranty start date because of an extended delivery date, the request to reset the warranty must be made in writing to the Contractor. Incomplete vehicles/motorcycles or vehicles/ motorcycles delivered to an Upfitter would not qualify for a revised start date unless the vehicle/motorcycle is in the control of the dealer during the upfit.

7) The Contractor shall notify a Customer's designated representative, as listed on the purchase order, no less than 24 hours prior to delivery. Deliveries will be accepted only between 8:30am – 3:30pm on Customer's normal workdays. Transport deliveries must be unloaded and ready for inspection prior to 3:00pm. Deliveries not

complying with these requirements may be rejected and will have to be redelivered at Contractor's expense.

8) All vehicles/motorcycles must contain no less than ¼ tank of fuel as indicated by the fuel gauge at time of delivery, except for vehicles and equipment with tanks over thirty-five (35) gallons in capacity, in which case the vehicle must contain a minimum of ten (10) gallons of fuel.

9) The Contractor shall be responsible for delivering vehicles/motorcycles that are properly serviced, clean, and in perfect operating condition. Pre-delivery service, at a minimum, shall include the following:

- Standard dealer and manufacturer protocol for new vehicle/motorcycle delivery;
- Cleaning of vehicle/motorcycle, if necessary, and removal of all unnecessary tags, stickers, papers, etc. Do not remove window price sticker or supplied line sheet;
- Speedometer must be correct regardless of the tires provided by the vehicle/motorcycle manufacturer or axle ratio furnished;
- Owner's manual and warranty manual must accompany each vehicle/motorcycle;
- All specified options that are "factory installed" are to be installed on the vehicle/motorcycle at the primary site of assembly and are to be the manufacturer's standard assembly-line product. No aftermarket and no dealer installed equipment will be accepted as "factory installed." Vendors found supplying aftermarket or dealer installed equipment where "factory installed" are specified may be required to retrieve all vehicles/motorcycles delivered and reorder new vehicles/motorcycles meeting the specifications.
- Manufacturer's suggested retail price list sheet (window sticker) form MUST be in the vehicle/motorcycle when it is delivered to the purchasing agency. Vehicles/motorcycle that are missing this form, or have forms that have been altered, will not be accepted.

C. Liquidated Damages

1) Force Majeure – Liquidated damages shall not be assessed for a delay resulting from the Contractor's failure to comply with delivery requirements if neither the fault nor the negligence of the Contractor or its employees 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 affects Subcontractors or suppliers if no alternate source of supply is available to the Contractor. In case of any delay the Contractor believes is excusable, they 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 vendor 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 vendor 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.

3.13 VEHICLE/MOTORCYCLE INSPECTION, ACCEPTANCE, AND TITLE

Inspection and acceptance of all vehicles/motorcycles will be at the Customer's place of business unless otherwise provided. Title to and risk of loss or damage to all items shall be the responsibility of the Contractor until acceptance by the Customer unless loss or damage results from negligence by the Customer.

If the materials or services supplied to the Customer are found to be defective or do not conform to specifications, the Customer reserves the right to cancel the order upon written notice to the Contractor. The Customer may return the product to the Contractor at the Contractor's expense.

3.14 ACCEPTANCE

It is the Customer's responsibility to thoroughly inspect each vehicle/motorcycle prior to acceptance. Copies of the contract specifications and purchase order for the vehicle/motorcycle will be delivered with the vehicle/motorcycle. Customers are to inspect the vehicle/motorcycle and compare contract specifications, purchase order and manufacturer's window sticker or manufacturer's invoice to ensure the vehicle/motorcycle meets or exceeds the requirements of the technical

contract specifications and purchase order. Purchasers are to inspect the vehicle/motorcycle for physical damage upon delivery.

Delivery of a vehicle/motorcycle to a Customer does not constitute acceptance for the purpose of payment. Final acceptance and authorization of payment shall be given only after a thorough inspection indicates that the vehicle/motorcycle meets contract specifications and the requirements listed below.

Should the delivered vehicle/motorcycle differ in any respect from the specifications, payment may be withheld by the Customer until such time as the Contractor completes the necessary corrective action. Vehicles, motorcycles and equipment shall be delivered with each of the following documents completed/included:

a. copy of "Customer's purchase order"
b. copy of the applicable "vehicle/motorcycle specification"
c. copy of "manufacturer's invoice" or "window sticker." Copy of manufacturer's invoice if vehicle/motorcycle model is not delivered with a window sticker. Prices may be deleted from manufacturer's invoice.
d. copy of "pre-delivery service report"
e. "warranty certification"
f. owner's manual
g. Virginia Department of Motor Vehicles – "Application For Certificate of Title and Registration" (for signature of authorized representative).
h. Virginia State Inspection

Deliveries that do not include the above forms and publications will be considered as incomplete and will be refused.

3.15 INVOICING AND PAYMENTS

Invoicing and payments shall be the responsibility of the Contractor and the Customer placing orders under this VMPP. Contractors must invoice each Customer independently from the Virginia Sheriffs' Association for vehicle/motorcycle(s) purchased from this VMPP.

The Contractor shall be paid upon submission of properly certified invoices to the Customer at the prices stipulated in the VMPP at the time of the acceptance of the

goods by the Customer. Upon receipt of the goods, a Customer has three (3) working days to inspect and approve the goods and services.

The invoice(s) shall, at a minimum, indicate the following:

> Shipping location, purchase order number, contract number, quantity shipped, price, date, make, model, and serial number of vehicle/motorcycle(s)

If the Contractor performs all of the obligations of the contract to the satisfaction of the customer, the customer shall pay the Contractor for the performance of the work in the manner and within the time specified in the contract documents, which shall be consistent with the provisions of Code of Virginia Sections 2.2-4352 and 2.2-4354, as amended. Furthermore, the Contractor shall, within seven days after receipt of payment by the customer, take the following actions:

1) Pay the Subcontractor for the proportionate share of the total payment received from the customer attributable to the work performed by the Subcontractor under that contract; or
2) Notify the customer and Subcontractor, in writing, of his intention to withhold all or a part of the Subcontractor's payment with the reason for nonpayment.

Copies of invoices shall be submitted to the Virginia Sheriffs' Association, 901 East Byrd Street, Suite 1301, Richmond, Virginia 23219.

3.16 INADEQUATE SERVICE

When equipment requires service or adjustments upon delivery, the Contractor shall either remedy the defect, or be responsible for reimbursing the manufacturer's local authorized dealer, or others, to remedy the defect. Such service or adjustments shall be initiated by the Contractor within forty-eight (48) hours (not including weekend and holidays) after notification by a Customer. Delivery will not be considered complete until all service and/or adjustments are satisfactory, and the equipment redelivered and accepted by the Customer.

The provisions of the delivery paragraph (Section 3.12B) shall remain in effect until the redelivery is accomplished and the equipment is accepted by the Customer. The cost of any transportation required shall be the responsibility of the Contractor.

3.17 CONTRACTORS' ACTIVITY REPORTS AND SCHEDULE AND FEE DEPOSIT REQUIREMENTS

Copies of purchase orders from Customers that are to be sent to the VSA:

- Are due upon receipt by the dealer. They are considered late after 10 (ten) business days.
- The VSA holds the right to implement an administrative late fee in the amount of $50.00 per occurrence on the late issuance of purchase orders. An administrative late fee will be imposed for contractors who have 3 consecutive occurrences of failing to submit a copy of the purchase order to the VSA, once it has been submitted by the purchasing agency. Administrative late fees will be included on the quarterly report invoice.
- Scan a complete copy of the PO and forward by email to kmitman@virginiasheriffs.org.
- Place the following in the subject line – PO (dealer's name)

Commission Fees to VSA:

- Reports setting out vehicle/motorcycle and equipment transactions and corresponding commission fees are due quarterly no later than the 10th of each month (following the end of the quarter) and should be sent by email to kmitman@virginiasheriffs.org.
- All awarded Contractors MUST file a signed and dated quarterly report with their commission fees. Should there be no activity during a given quarter, the Contractor is required to submit a report, and must indicate "no sales this quarter" on the report.
- No copies of purchase orders are required to be filed with the quarterly report. They should already be on file.
- The report must be complete with the name of the dealer and the date. It is not necessary to indicate the quarter on the top of the report.
- All checks or EFTs for the commission fee must be received by the VSA no later than the 15th of each month following the closing of the quarter.
- Reports which do not adhere to the required format and/or not supported by complete, legible copies of all purchase orders in their entirety will be returned to the reporting dealership for correction of cited deficiencies.

By submission of these Quarterly Activity Reports and corresponding fee deposits, the Contractor is certifying the accuracy of such reports and deposits. All reports and fee deposits shall be subject to audit by the VSA or its designee. Copies of

Customer's original purchase orders will be used by the VSA as a check and balance measure.

Contractors that fail to submit fees and Quarterly Activity Reports will incur a $25 per day late fee for every day that fees and reports are past due, beginning on the sixteenth (16th) day of the month following the end of the quarter. An administrative late fee will be imposed for contractors who must be reminded more than 2 times to submit the Quarterly Activity Report. All administrative late fees will be included on the invoice provided by the VSA during the Quarterly Report review period.

Such late fees are to be included in Contractor's fee submission. Late fees which are outstanding more than 45 days can result in a bidder's disqualification in future year's solicitations.

All notices for quarterly reports will be sent by the VSA via email ten (10) business days prior to their due date – there will be no additional faxed or email reminders for Contractors to submit quarterly reports. All participating Contractors will be responsible for making sure that the Contract Administrator has the correct email address for the person responsible for all quarterly reports. This information must be submitted to Kaylyn Mitman at kmitman@virginiasheriffs.org.

Failure to submit fees with accompanying quarterly reports to the VSA within 30 calendar days following the end of each quarter will result in the Contractor being found in default if in the best interest of the VMPP. A Contractor can be found in default if the Contractor fails to submit its sales summary reports even when there are no reported sales.

3.18 DEALER/CONTRACTOR INSTALLED EQUIPMENT

All Contractors' installed accessories (roll bar, trailer hitch, etc.) shall be installed according to the manufacturer's specifications.

All Contractor installed accessories must be manufactured by a manufacturer recognized by the industry of the accessory provided unless the accessory is not available from a recognized manufacturer. The dealer is required to disclose the "make/model" of the product being offered and the location, design, and model must be approved by the Customer prior to installation. The dealer must also disclose the warranty of any item that is less than or exceeds vehicle/motorcycle factory warranty coverage.

A Contractor that employs or subcontracts technicians to install emergency equipment on vehicles/motorcycles purchased on this contract are required to utilize technicians that are certified in Law Enforcement Vehicle Installation through the Engineering Validation Test Certification Commission, Inc. or an approved equivalent.

The VSA Contract Administrator may at any time during the contract period request proof of the required certification.

Any Contractor that violates this provision will be considered in default of the contract. The contract may then be terminated upon a ten-day written notice of said violation.

3.19 PRODUCTION CUTOFF

A Contractor shall notify the VSA Contract Administrator of production cutoff dates, in writing, no less than sixty (60) days prior to the close of "Fleet Final Order Date." Purchase Orders received by the Contractor ten (10) business days prior to the final order date must be accepted and entered into the order system with the manufacturer. Purchase Orders issued and received after the cutoff date will be subject to availability. For purposes of this section, Purchase Orders shall be deemed received by the Contractor upon delivery. Delivery can be accomplished by: A) in person delivery, B) certified mail, postage prepaid, return receipt requested, C) facsimile, evidenced by a confirmation print out, or D) a commercial overnight courier that guarantees next day delivery and provides a receipt.

If a Purchase Order has been timely received by the Contractor and the manufacturer fails to produce/deliver the production year vehicle/motorcycle, the Contractor must provide the next year's equivalent model at previous year's contract prices.

If Purchase Orders are received by the Contractor after the cutoff date, the Contractor and manufacturer at their sole discretion may choose to provide next year's model at current year's prices until the end of the contract term.