Sheriffs' Association of Texas
Vehicle Procurement Program

Solicitation for Bids and
Contract Terms and Conditions

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Section I

Pre-Bid Procedures

1.0 PURPOSE

The Sheriffs' Association of Texas (SAT) invites interested vendors, including Motor Vehicle Manufacturers and Dealers/Certified Representatives to submit responses in accordance with these solicitation documents. The Sheriffs' Association of Texas will serve as the "Contract Administrator" in the solicitation process and the administration of the resulting contract. The purpose of this solicitation for bids is to establish a contract with manufacturer's authorized dealers for the purpose of providing vehicles on a "no trade-in basis."

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

1.1 DEFINITIONS

The following terms are defined as the follows:

a) Vehicle Procurement Program (VPP) – A program managed by the Sheriffs' Association of Texas for the purpose of providing public procurement of quality goods (motor vehicles) to support effective and efficient government ensuring the prudent use of public funds. The primary goals of the VPP 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 – The Sheriffs' Association of Texas employee who is responsible for administering the contract solicitations and administration process for the Vehicle Procurement Program.

c) Cooperative Bid Coordinator – The Sheriffs' Association of Texas employee who is responsible for the day-to-day operations of the Vehicle Procurement Program.

d) Vehicle Procurement Advisory Committee (VPAC) – A body composed of employees of sheriffs' offices and other local governmental agencies in Texas, and any other person who the SAT identifies as subject matter experts that will assist with the development of bid specifications, evaluation of bid responses, and the awarding of contracts.

e) Pre-Bid Conference – A meeting held by the SAT that invites dealers and manufacturers' representatives to attend a review all current contract year vehicle specifications and the VPP's Solicitation for Bids and Contract Terms and Conditions.

f) Contractor – The bidder that has been awarded a contract and agrees to sell vehicles and equipment under the requirements, specifications, and terms and conditions of this agreement, to eligible Customers, as defined herein.

g) Customer – An eligible Customer as defined in Section 1.2.

h) VendorLink – The Sheriffs' Association of Texas' Bid Award System, located at 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.

i) Bid – A competitive bid procedure initiated through the issuance of a solicitation for bids. The term "bid" as used herein, shall not include request for proposals, request for qualifications, request for letters of interest, or the solicitation of purchase orders based on oral or written quotations.

j) Bid Title – The bid title consists of the bid number assigned to each contract term by the SAT.

k) Bidder – The entity that submits a bid and documentation to the SAT Contract Administrator in accordance with the terms and conditions contained herein.

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

m) SAT Vehicle Specification Notebook – A resource notebook provided to dealers that contains all bid-eligible vehicle specifications during the existing contract term.

n) Factory – The manufacturer or assembly line for motor vehicles or equipment.

o) Dealer Option – A product or service provided by the dealer or third party but not the factory.

p) Add Option – A product or service provided by the vehicle manufacturer.

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

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

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

t) 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)

u) Total Recognized MSRP – Occurs when an SAT requested option does not exist on the base vehicle model as a free flow option contained in the manufacturer's order guide. This MSRP is generated by the creation of a new model that includes the requested SAT option content. The Total Recognized MSRP is calculated as the differential between the dealer costs on the representative base vehicle versus total MSRP of the requested SAT option modifying the vehicle.

v) Special Service Vehicle (SSV) – Specialized vehicles that are generally heavier duty vehicles 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.

w) Police Pursuit Vehicles (PPV) -- Police Pursuit Vehicles are the most common police cars and are equipped to handle the vast majority of tasks including pursuit and high-speed response calls.

1.2 ELIGIBLE CUSTOMERS OF VPP

The VPP is available to any and all units of local governments/political subdivisions including, but not limited to, county, local county board of public instruction, municipalities and/or police agencies, other local public or public safety agencies or authorities, and any private university and college within the State of Texas.

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 1.4 Funding.

1.3 TERM OF CONTRACT

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

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

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

In the event that a contract is continued beyond the term provided by mutual consent the contract 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.

1.4 FUNDING

Funds expended by a Customer pursuant to this contract must be allocated by the individual Customer for each fiscal year included within the contract period. Therefore, the contract shall automatically terminate without penalty if such funds are not allocated.

1.5 COMMUNICATIONS

Communications between a bidder, it's representative(s) and SAT are limited to matters of process or procedure. Requests for additional information or clarifications must be made by electronic communication to the SAT Contract Administrator no later than ten (10) calendar days prior to the scheduled bid opening date.

During this solicitation for bids period, all questions/communication will only be accepted by electronic communication made directly to the SAT Contract Administrator. The SAT 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 solicitation for bids or in any written addendum to this bid. Bidders should verify with the SAT Contract Administrator prior to submitting a bid that all addenda have been received.

1.6 REFERENCES

If requested by the SAT, 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 exempt, the bidder must demonstrate to the satisfaction of the SAT Contract Administrator that the dealership has the appropriate facility, staffing, and financial resources to support the contract should they receive an award. The exempt bidder must also provide five (5) customer service references. See Section 1.7 Bidder Qualifications.

All references must be received by the SAT no later than five (5) business days from the deadline to submit electronic bids.

1.7 BIDDER QUALIFICATIONS

In order for bids to be considered, new bidders to the Sheriffs' Association of Texas' Vehicle Procurement Program (VPP) must submit with their bid, evidence that they are qualified to satisfactorily perform the specified service. 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 their proposal; 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 within the last three (3) years, and letter(s) from the manufacturer that the bidder is an authorized distributor for the proposed manufacturer. See Section 1.11 Submittal of Bid.

Any bidder that has been awarded a contract and has not sold off of the contract for two (2) consecutive years shall not be qualified to submit a bid for a period of 12 months following the second consecutive year of failing to sell off of an awarded contract.

1.8 LATE BIDS

At the time, date, and place indicated in the published Bid Calendar, the bids will be opened. Any bid(s) received after the time and date specified will be rejected by the SAT and VendorLink System and all documentation will be returned to the bidder unopened. An electronic bid is considered received by the SAT when a bidder saves their base vehicle 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. Bidders may edit all VendorLink entries as many times as necessary up until the date and time the VendorLink system closes for bidding. At that specified time, all bids are final.

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

1.9 VendorLink

VendorLink is the Sheriffs' Association of Texas' Bid Award System. Access to the system requires a login and user password. To obtain a login and password, dealers must complete the registration form provided through VendorLink.

All prospective bidders are encouraged to download and review the bid submission checklist and reference guide located in VendorLink to obtain the most 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 the Cooperative Bid Coordinator at kmitman@ncsheriffs.net.

1.10 SAT COMMISSION FEES FOR ALL SPECIFICATIONS

Contractors must include a flat fee of $350.00 per purchase order for the SAT commission fee and their quotes. The SAT commission fee will be incorporated into, and made a part of, the total invoice amount. Fees are **NOT** based on the total invoice cost of the new vehicle or equipment. Trade-ins and other exchanges will not reduce or impact the fee. No other commission fee(s) will be applicable to any transaction relative to the contract.

1.11 SUBMITTAL OF BID

Bidders must submit their bid and all required bid documents electronically via the Sheriffs' Association of Texas' Bid Award System (VendorLink.

Bidders must bid a requested SAT 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 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. If a paper bid is received without a corresponding electronic bid, the bid package will be rejected.

Each bidder is responsible for ensuring that his or her bid is submitted before the deadline outlined in the Bid Calendar. Late bids will not be considered and VendorLink will not accept bids after the due date and time specified in the Bid Calendar. If an electronic bid is not submitted by the date and time specified on the Bid Calendar, the bid is rejected. See Section 1.8 Late Bids. A bid may also be

rejected if the bidder has been awarded a contract and has not sold off of the contract for three (3) consecutive years. See Section 1.7 Bidder Qualifications.

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 from different manufacturers, the dealership must submit separate bid packages for each manufacturer. The bid package must include:

- Specifications and Bid Form

- Manufacturer's print out (Ford – "Dora"; General Motors – "GM Autobook"; or approved equivalent) for each vehicle 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 as outlined in the bid solicitation. Dealer installed aftermarket components are required to meet the base vehicle 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.

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

- By virtue of its bid submission, bidder acknowledges its obligation to sell vehicles in all zones for which the bidder is awarded.

1.12 BID OPENING AND ELECTRONIC POSTING OF NOTICE OF INTENDED AWARD

Bids will be opened at the date, time, and place indicated in the Bid Calendar and will be evaluated thereafter. Although prices will not be read aloud, bidders may attend, but attendance is not a requirement.

The SAT Cooperative Bid Coordinator will notify all bidders of the initial bid tabulation results and any and all awards according to the timetable outlined in the Bid Calendar.

If the posting of the initial bid tabulation results is delayed, the SAT Cooperative Bid Coordinator will notify all bidders of the delay and will give a revised date for posting of results.

1.13 BID EVALUATION CRITERIA

Eligible responsive bids will be evaluated to determine if all contract bid requirements are met. Bids that do not meet all contract 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 SAT Contract Administrator, to present evidence of such experience.

The SAT Contract Administrator reserves the right to investigate or inspect at any time during the bid award process, 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 as nonresponsive. In determining past performance, the SAT Contract Administrator will give consideration to the nature and number of complaints received from Customers regarding a previously awarded dealer. The SAT Contract Administrator may use discretion in determining which bids meet the contract requirements of this solicitation, and which respondents are responsive and responsible.

The SAT 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 minor irregularities, technicalities, or omissions if determined that doing so will serve the best interest of the local government agencies of the State of Texas irrespective of the lowest bid. The SAT Contract Administrator may reject any responses not submitted in the manner specified by solicitation documents. As stated in section 1.7 above, any bidder that has been awarded a contract and has not sold off of the contract for three (3) consecutive years shall not be qualified to submit a bid for a period of 12 months following the third consecutive year of failing to sell off of an awarded contract.

1.14 BASIS FOR AWARD

The SAT Contract Administrator will award the bid to the lowest and best responsive bidder by specification, by manufacturer and by zone. The award will be determined by the price of the bid, qualifications based on a dealer's facilities and financial resources, and demonstrated ability to perform the work in a satisfactory manner.

Bidders who routinely demonstrate deficiencies in providing satisfactory customer service per the SAT's discretion during a contract period prior to the issuance of this bid, may have their bid rejected or limited to the number of regions they can be awarded in this bid cycle. In cases where the manufacturer is at fault, the dealer must provide evidence of timely communication to the complainant and to the SAT.

Bidders are hereby advised that the SAT Contract Administrator may use discretion in rejecting any bid proposal not considered to be competitive in nature based on the best pricing information available.

The add options in the bid shall be for informational purposes only and will not serve as a basis for bid protest. See Section 1.56 Option Pricing for additional criteria.

1.15 ZONE BIDDING

Bidders are allowed to direct their bid to one or more geographic zones depicted on the zone map included. 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 six zones, as indicated on the zone map, all dealers will have a seventh option to bid in a separate category that will not charge the Customer a delivery fee.

Customers can purchase vehicles from all zones. When a customer chooses to purchase a vehicle from a dealer outside of their designated zone, the customer will be responsible for picking up the vehicle from the awarded dealer.

1.16 TAX EXEMPTIONS FOR CUSTOMERS

All state and federal tax exemptions applicable to the units of local governments of the State of Texas will apply. It is the Customer's responsibility to comply with any federal, state, and local tax requirements.

1.17 TAX EXEMPTIONS FOR SAT

The SAT is a 501(c)(3) organization and exempt from all Federal Excise and State Taxes. The association's tax id number is 74-0896285.

1.18 FACILITIES

The SAT Contract Administrator reserves the right to periodically request additional or updated information from a dealer regarding the repair/warranty facility during the solicitation for bids period and the term of any awarded contract.

1.19 SPECIFICATIONS

All vehicles and equipment listed in the SAT Vehicle Specifications Notebook shall be the manufacturer's current basic production model, and shall, as 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.

All vehicles and equipment offered to satisfy a solicitation for bids must be designed, constructed, and installed to be fully suitable for their intended use and service.

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

1.20 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.

1.21 FEDERAL AND STATE VEHICLE MANUFACTURING STANDARDS

In addition to the equipment set out by the specifications listed in the SAT Specifications Notebook, vehicles shall be equipped with all standard equipment as specified by the manufacturer for this model. All vehicles and equipment offered to satisfy this solicitation 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.

1.22 EXECUTION OF BID

The bid must contain a manual signature of the dealer principal and an authorized representative when applicable in the space provided on the Solicitation for Bids and Contract Terms and Conditions Signature Page. Failure to properly sign and submit the Solicitation for Bids and Contract Terms and Conditions Signature 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 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 letter form, signed by the bidder(s) and attached to the bid.

1.23 MISTAKES

Bidders are expected to examine the specifications, delivery schedules, bid prices, extensions and all instructions pertaining to supplies and services. Failure to do so will be at the bidder's risk.

1.24 CONDITION AND PACKAGING

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

1.25 UNDERWRITERS' LABORATORIES (UL)

Unless otherwise stipulated in the bid, 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.

1.26 EQUIVALENTS

The term "Approved Equivalent" is used to allow a bidder to bid components or equipment that are equal to the components or equipment described in the detailed specifications. The SAT shall have the sole authority to determine the suitability of approved equivalents.

Catalog numbers, manufacturers', and brand names, when listed, are informational guides as to a standard of acceptable product quality level only and should not be construed as an endorsement or a product limitation of recognized and legitimate manufacturers. Bidders shall formally substantiate and verify that product(s) offered conform with or exceed the quality listed in the specifications.

If the bidder offers a make or model of equipment or supplies other than those specified in the bid specifications, the bidder must so indicate in the bid submittal.

Bidder shall indicate in the bid package the manufacturer's name and option code if bidding other than the specified brands and shall indicate ANY deviation from the specifications as listed. Items offered that are other than those described in the specifications require complete descriptive technical literature. The literature must be marked to indicate in detail the product's conformance with the specifications. This literature MUST BE INCLUDED WITH THE BID. Specific article(s) of equipment/supplies shall conform in quality, design, and construction with all published claims of the manufacturer. NO BIDS WILL BE CONSIDERED WITHOUT THIS DATA.

Lacking any written indication of intent to quote an alternate brand or model number, the bid will be considered in compliance with the specifications as listed in the Vehicle Specifications Notebook.

Dealers offering alternate makes or manufacturers of vehicles or equipment not specifically identified in the specifications cannot offer the vehicle or equipment as an "add option" to satisfy the bid specification and detail. Offerings of this nature will cause the bid to be rejected.

1.27 INTERPRETATIONS

Unless otherwise stated in the bid, any questions concerning conditions and specifications should be submitted in writing to Jason Bennett at Sheriffs' Association of Texas Vehicle Procurement Program, 1601 S IH 35 Frontage Road, Austin, Texas 78741 or by email to jbennett@ncsheriffs.net.

1.28 BID OPENING

Bids shall be opened and read on the date, time, and place specified on the Bid Calendar, although prices will not be read aloud. Attendance is not required by any bidder.

1.29 GOVERNING LAW

All questions with respect to the construction, performance, and enforcement of these terms and conditions, and the rights and liabilities of the parties hereunder shall be determined in accordance with the laws of the State of Texas. Any legal action taken or to be taken by any party regarding these terms and conditions or the rights and liabilities of the parties hereunder shall be brought only before a court of competent jurisdiction located within the State of Texas.

1.30 PATENTS AND ROYALTIES

The bidder, without exception, shall indemnify and hold harmless the SAT and its employees from liability of any nature or kind, including cost and expenses, 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 SAT.

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.

1.31 ANTI-DISCRIMINATION

The bidder certifies that he/she is in compliance with the non-discrimination clause contained in Section 202, Executive Order 11246, as amended by Executive Order 11375, relative to equal employment opportunity for all persons without regard to race, color, religion, sex, or national origin.

1.32 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 SAT-sponsored proceeding, please contact Jason Bennett at 919-459-8195 or jbennett@ncsheriffs.net.

1.33 MINORITY BUSINESS ENTERPRISE (MBE)

The Sheriffs' Association of Texas policy is that MBEs shall have the opportunity to participate in competitive bids. Such process would be for supplying goods and services to the Customers.

1.34 QUALITY

All materials used for the manufacture or construction of any supplies or equipment covered by this bid shall be new. The items bid must be new, the latest model, of the best quality, and highest grade of workmanship per SAT discretion.

1.35 FACILITIES

The Sheriffs' Association of Texas reserves the right to inspect the bidder's facilities at any time with a two week (calendar days) prior written notice.

1.36 BID TABULATIONS

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

1.37 REQUESTS FOR CLARIFICATION AND ADDENDA TO BID SPECIFICATIONS

In case of doubt as to the meaning or intent of any items contained in the specifications, inquiry should be made to the SAT 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 Bid Calendar. ALL requests for clarification from bidders and SAT responses will be sent to all bidders by the date listed on the Bid Calendar.

<u>The submission of a bid presumes the bidder thoroughly understands the terms and the specifications.</u>

If any person contemplating submission of a Bid under this Solicitation for Bids is in doubt as to the meaning of the specifications or other Bid documents or any part

thereof, the Bidder must submit to the SAT 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 Solicitation for Bids and Contract Terms and Conditions shall be submitted in writing by mail or facsimile to the Sheriffs' Association of Texas, Vehicle Procurement, 1601 S IH 35 Frontage Road, Austin, Texas 78741, FAX Number (512) 445-0228, or by email to jbennett@ncsheriffs.net with the Bid Title referenced on all correspondence.

Any interpretations will be made only by Addendum issued by the SAT Contract Administrator. All addendums will be sent to all bidders.

There are two types of addendums, informal addendums and formal addendums. Informal addendums are issued to provide minor clarification or minimal changes to the Bid. An example of an informal addendum would be making a grammatical change to the Solicitation for Bids and Terms and Conditions. A formal addendum will be issued when substantive changes are made to the specifications or bid process that will impact the technical submission of the Bids. An example of a formal addendum would be when a model is deleted from the specifications due to order cut off dates. In the event of conflict with the original contract documents, the addendum shall govern all other contract documents that relate to that issue. Subsequent addendums shall govern prior addendums on the same issue.

All Bidders will be required to acknowledge any formal addendums 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; provided, however, that the SAT may waive this requirement in its best interest. The SAT will not be responsible for any other explanation or interpretation made verbally or in writing by any other SAT representative.

1.38 DEMONSTRATION OF COMPETENCY

Pre-award inspection of the Bidder's facility may be made prior to the award of contract. Bids will only be considered from firms which are regularly engaged in the business of providing the goods and/ or services as described in this Bid.

Bidders must be able to demonstrate a satisfactory record of performance for a reasonable period of time per SAT's discretion, and have sufficient financial support, equipment and organization to ensure they can adequately execute the services if awarded a contract under the terms and conditions herein stated.

The terms "equipment and organization" as used herein shall be construed to mean a fully equipped and well-established company in line with the best business practices in the industry and as determined by the SAT.

The SAT may consider any evidence available regarding the financial, technical, and other qualifications and abilities of a Bidder, including past performance (experience) with the SAT in making the award in the best interest of the SAT.

The SAT may require Bidders to show proof that they have been designated as authorized representatives of a manufacturer or supplier which is the actual source of supply. In these instances, the SAT may also require information from the source of supply regarding the quality, packaging, and characteristics of the products to be supplied to the SAT through the designated representative. Any conflicts between this information provided by the source of supply and the information obtained in the Bidder's Bid which is contrary to or would alter a specification may render the Bid non-responsive.

If the SAT determines, at any point in the bid or contract award process, that the successful Bidder no longer possesses the financial support, equipment, and organization necessary to comply with the demonstration of competency section, the SAT may award the bid to the next qualified bidder.

1.39 DETERMINATION OF AWARD – LOWEST AND BEST BIDDER

The VPAC shall award the contracts to the lowest and best bidder. VendorLink will tabulate the lowest bidder on each vehicle specification. Even though a bidder bids the lowest price for a vehicle specification the bidder may not receive the contract award.

In determining the best bidder, in addition to price, the following criteria will also be considered:

- The ability, capacity, and skill of the bidder to perform the Contract
- Whether the bidder can perform the Contract within the time specified, without delay or interference
- The character, integrity, reputation, judgment, experience, and efficiency of the bidder
- The quality of performance of previous contracts, if applicable
- The previous and existing compliance by the bidder with laws and ordinances relating to the Contract

1.40 LAWS, PERMITS AND REGULATIONS

The bidder shall obtain and pay for all licenses, permits, and inspection fees required; and shall comply with all laws, ordinances, regulations, and requirements applicable to the work contemplated herein.

1.41 ELIMINATION FROM CONSIDERATION

A contract shall not be awarded to any person or dealer who is in arrears to the SAT for any debt, or commission fees, or contracts which are defaulted as surety or otherwise upon any obligation to the SAT.

1.42 WAIVER OF INFORMALITIES

The SAT reserves the right to waive any informalities or irregularities in this bid solicitation.

1.43 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.

1.44 GRATUITIES

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

1.45 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 SAT. In case of default on the part of the Contractor after the acceptance of the bidder's offer, the SAT may procure the items or services from other sources and hold the bidder or Contractor responsible for any excess cost occasioned or incurred thereby.

1.46 TIE BIDS

Whenever two or more bids, equal with respect to price, quality, and service, are received for the procurement of vehicles and equipment, the following order of preference shall be applied to select the successful bidder:

1) If only one such bid is submitted by a Texas resident bidder, then preference shall be given to the bid of the State resident.

2) Consideration will next be given to a dealer's track record with the Customer service they provide to government Customers.

3) Consideration will next be given to the dealer whose place of business resides within the zone to which they are bidding.

4) Consideration will next be given to the dealer who has a qualified drug-free work program.

5) Consideration will next be given to the Texas HUB-certified bidder; and

6) In all other cases, a tie will be resolved by tossing a coin. The coin toss process must be witnessed, and the results documented in the procurement file, by a designated member of the VPAC performing the toss.

Only the above criteria will be considered when resolving a tie bid.

1.47 DELIVERY TIME

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

Delivery time may become a consideration in making an award. Delivery shall be within the regular business working hours of the Customer, Monday through Friday, excluding holidays.

1.48 RIGHT TO AUDIT

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

SAT, and its authorized representatives, shall have the right to audit, examine, and make copies of, or extracts from, all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this contract or agreement. 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 proposals of successful and unsuccessful bidders, 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 SAT when requested. The records shall be made available to the SAT (subject to a three-day written notice) during normal business hours.

SAT, at its option, may select the Contractor's office or place of business or an offsite location for the audit. The SAT 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 SAT.

The Contractor shall ensure the SAT 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 SAT.

The costs of any audits conducted under the authority of this right to audit, if not addressed elsewhere, will be borne by the SAT 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 SAT for the total costs of the audit not to exceed $5,000. If the audit discovers substantive findings related to fraud, misrepresentation, or nonperformance, the SAT 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 SAT's findings to the Contractor.

1.49 MODIFICATION/WITHDRAWALS OF BIDS

A bidder may submit a modified bid to replace all or any portion of a previously submitted bid up until the bid due date and time when the VendorLink system closes for bids. No modifications will be accepted after the VendorLink system closes at the bid due date and time. No modified bid submitted after the bid due date and time of the paper bid will be considered.

Bids shall be irrevocable after three (3) business days from the date and time of the bid due date when the VendorLink system closes. Bids cannot be modified after the VendorLink system closes but can be withdrawn in writing within three (3) business days after the VendorLink system closes. After the expiration of the three (3) day period, all bids are final. If a contract is not awarded within 120 days from the opening of the bids, any bidder may withdraw their bid.

The bidder warrants by virtue of bidding the quoted prices in their bid response, that the prices will be good throughout the bidding and contract award period.

1.50 EXCEPTIONS TO BID

Should a proposed bid not be able to meet one (1) or more of the requirements set forth in this Solicitation for Bids, and the bidder is proposing alternatives to said requirements, the bidder must notify the SAT Cooperative Bid Coordinator's Office in writing at least five (5) days prior to the deadline for submission of bids. The SAT reserves the right to revise the scope of services via addendum prior to the deadline for receipt of bids.

1.51 PRICE MATCHING PREFERENCE

A price matching preference may be given to Texas resident bidders on contracts for the purchase of equipment and vehicles.

This preference will allow a qualified Texas resident bidder to match the price of the lowest responsible nonresident bidder, if the Texas resident bidder's price is within five percent (5%) or $10,000, whichever is less, of the nonresident bidder's price. If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have three (3) business days from being offered the contract by the SAT to accept or decline the award based on the lowest responsible nonresident bidder's price.

1.52 METHOD OF AWARD

Award of this contract will be made to the lowest and best bidder. SAT will also identify the second lowest and best bidder per specification and zone to be utilized in the event the lowest and best bidder is unable to fulfill their obligations as defined in Section 1.39 Demonstration of Competency. The SAT reserves the right to make multiple awards if deemed in the best interest of the SAT. See Section 1.14 Basis for Award (specific to vehicles).

1.53 AMENDMENTS TO SOLICITATION DOCUMENTS

The SAT Contract Administrator retains the right to issue amendments to the Solicitation for Bids as appropriate and necessary. Notice of any amendment will be sent to all bidders. Bidders are responsible for monitoring their email for new or updated information concerning the bid.

1.54 AMENDMENTS TO CONTRACTS

The SAT Contract Administrator retains the right to add or delete any items from a bid or resulting contract(s) when deemed to be in the best interest of the SAT and the participating eligible Customers.

1.55 SPECIFICATION EXCEPTIONS, OMISSIONS, OR ERRORS

Specifications are based on the most current manufacturer literature available. Bidders should immediately notify the SAT 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.

Bidders are required to indicate in their 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 bidders being held responsible for all cost required to bring the vehicle into compliance with the contract specifications.

It is up to the discretion of the SAT whether to change a specification once the request for clarification period has ended. If there are errors within a vehicle specification after the request for clarification period has ended, the SAT may remove said specification from that contract's list of offerings.

1.56 OPTION PRICING

Prices for options submitted by the bidder for emergency vehicle 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, 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 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. 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 their bid submission any option requiring the purchase of other options, and also indicate options that are a part of another option. The codes listed in the "Prices" section of the Special Conditions must be used.

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 SAT Bid Coordinator.

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

Dealers are required to submit all available factory option pricing through the VendorLink website at the time of the dealer's bid submission.

1.57 FINANCIAL RESPONSIBILITY

The bidder affirms by his or her signature on the contract signature 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 bid and has the adequate facilities and personnel to fulfill such requirements.
- Accepts the financial responsibility associated with this bid 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, Contractor 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 delivered to the Customer are free and clear of all outside liens, encumbrances, and security interests apart from the dealer floor plan or other dealer inventory finance security interest.

Section II

Post Bid 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 SAT 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 SAT 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 SAT 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 two (2) business days following the release of the Bid Award Announcement. This award protest will be submitted to the SAT 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 SAT Contract Administrator will ensure the bid award protest was timely made and will present the protest to the VPAC within one (1) business day.

Failure to timely protest the award of the contracts 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 SAT shall thereupon have the right to terminate the services then remaining to be performed by giving written notice to the successful bidder.

In that event, the Customer shall compensate the Contractor in accordance with the agreement for all services performed by the contractor 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 successful bidder is determined.

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

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.

2.3 PRICES SHALL BE FIXED AND FIRM FOR TERM OF CONTRACT

If the successful bidder is awarded a contract under this bid solicitation, 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.

It is the responsibility of the contractor to request a price bridge between model years to ensure all prices remain fixed and firm until the end of 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 their decision shall be final and binding on both parties.

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

3.1 CANCELLATION

In the event any of the provisions of a contract are violated by the Contractor, the Contract Administrator shall give written notice of the deficiencies to the Contractor giving the Contractor ten (10) business days after receipt of written notice to correct the deficiencies. If the deficiencies are not corrected, the VPAC will direct the Contract Administrator to immediately cancel the contract.

3.2 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.

3.3 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 SAT.

3.4 TERMINATION FOR CONVENIENCE OF THE SAT

The SAT, 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 180 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 SAT. All vehicles and materials shall be disposed of by agreement between Contractor and Customer.

The Contractor shall not furnish any product after it receives the notice of termination, except as necessary to complete the continued portion of the contract, if any. The Contractor shall not be entitled to recover any 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.

3.5 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 Sheriffs' Association of Texas, 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 Sheriffs' Association of Texas, and participating agencies.

The Sheriffs' Association of Texas 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 Sheriffs' Association of Texas, 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 SAT Contract Administrator.

- All insurance policies shall be issued by companies authorized to do business under the laws of the State of Texas 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 SAT 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 SAT 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 SAT'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 SAT, a 501(c)(3) 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 solicitations for bids. 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 SAT, 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 SAT 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 SAT 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 SAT 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 specifications 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 SAT 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 insureds hereunder shall be considered members of the public.

3.6 WARRANTY OF ABILITY TO PERFORM

The Contractor warrants that, to the best of his or her 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 Texas Comptroller, or on any similar list maintained by any other state or the federal government. The Contractor shall immediately notify the SAT and the Customer in writing if its ability to perform is compromised in any manner during the term of the contract.

3.7 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.

Any violation of these provisions may also result in the Contractor's name being removed from the SAT list of vendors who are allowed to bid on upcoming contracts.

3.8 OPTION TO RENEW WITH PRICE ADJUSTMENT

Any contract may be extended for an additional two (2) years, on a year to year basis, if mutually agreed by both parties. SAT 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 SAT may consider an adjustment to price due to increases or decreases on the Consumer Price Index; but in no event will the prices be increased or decreased by a percentage greater than the percentage change reflected in the nationally published Consumer Price Index-Goods and Services, 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 should 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 SAT will assume that the vendor has agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period may not be considered.

The SAT 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 SAT.

3.9 NON-PERFORMANCE

Contractor shall at all times during the contract term remain responsive and responsible to the Customer and the SAT. In determining Contractor's responsibility as a vendor, the SAT 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 SAT or the Customer, the contract will be terminated, and the dealer and their 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/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 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 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 bid award for a contract, is required and bound to accept such purchase order and deliver the product; regardless of whether the vehicle is a base model or includes options at a higher cost. The Contractor must deliver this vehicle regardless of profit or loss based on their respective bid. Failure to deliver said vehicles or equipment could result in the Customer and the SAT 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.

Finally, any contractor that has been awarded a contract and has not sold off of the contract for three (3) consecutive years shall not be qualified to submit a bid for a period of 12 months following the third consecutive year of failing to sell off of an awarded contract (see section 1.7).

3.10 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 before or after the vehicle has been accepted by the Customer, the Contractor shall be required to replace the vehicle with a vehicle that meets the required specifications, including all factory installed components. In the alternative, the Customer shall decide whether they will accept dealer installed components.

3.11 EQUITABLE ADJUSTMENT

The Contract Administrator may make an equitable adjustment in the contract terms or pricing at their 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 SAT'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 SAT 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

The Contract Administrator will consider any request for equitable adjustment at any time, provided the Contractor submits the above documentation to the Contract Administrator, in addition to any other information requested of the

Contractor. However, any equitable adjustment, if approved, shall not apply to purchase orders that have already been received by the Contractor. Any adjustment of the sales price for any purchase order already received by the Contractor is exclusively between the Contractor and Customer. See section 3.21 below for production cutoff dates and proper submission of purchase orders.

3.12 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)

3.13 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 contract solicitation terms and conditions. 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 Sheriffs' Association of Texas Cooperative Bid Coordinator (by email) 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 ordered prior to the manufacturer's close of production shall be supplied in the manufacturer's next model run of that class vehicle even it is requires supplying a later model at the original bid prices.

5) The Contractor shall place a purchase order with their 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 ordered by the Customer is fully compatible with all ordered options and that the vehicle 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 that will be fully compatible with all of its options.

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

B. Delivery

1) Receipt of a vehicle by the Contractor is defined as acceptance of the vehicle(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 to the Customer as soon as practical after receipt of the vehicle (s) from the manufacturer. Vehicles originating as an incomplete vehicle 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 with more than 750 odometer miles may be rejected, or $0.58 cents per mile in excess of 750 miles may be deducted from the invoice. This requirement also applies to the redelivery of vehicles 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 or vehicles delivered to an upfitter would not qualify for a revised start date unless the vehicle 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 8:00am – 3:30pm on Customer's normal work days. 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 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 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 delivery;
- Cleaning of vehicle, if necessary, and removal of all unnecessary tags, stickers, papers, etc. Window price sticker may be placed in the vehicle.
- Speedometer must be correct regardless of the tires provided by the vehicle manufacturer or axle ratio furnished;
- Owner's manual and warranty manual must accompany each vehicle;
- All specified options that are "factory installed" are to be installed on the vehicle 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 delivered and reorder new vehicles meeting the specifications.
- Manufacturer's suggested retail price list sheet (window sticker) form MUST be in the vehicle when it is delivered to the purchasing agency. Vehicles 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.

3.14 VEHICLE INSPECTION, ACCEPTANCE, AND TITLE

Inspection and acceptance of all vehicles 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.

3.15 ACCEPTANCE

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

Delivery of a vehicle 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 meets contract specifications and the requirements listed below.

Should the delivered vehicle 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 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 specification"

c. copy of "manufacturer's invoice" or "window sticker." Copy of manufacturer's invoice if vehicle 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. Application for Texas Title and/or Registration Form 130-U Rev. 08-16 (for signature of authorized representative).
h. Texas State Inspection

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

3.16 INVOICING AND PAYMENTS

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

The Contractor shall be paid upon submission of properly certified invoices to the Customer at the prices stipulated in the VPP 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(s)

Copies of invoices shall be submitted to the Sheriffs' Association of Texas, Vehicle Procurement Program, 1601 S IH 35 Frontage Road, Austin, Texas 78741

3.17 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 3.13B) 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.

3.18 WARRANTY, REPAIRS, AND SERVICE

Failure by any manufacturer's authorized representative to render proper warranty service/adjustments, including providing a copy of the warranty work order to the Customer, shall subject that representative and the Contractor to suspension from the approved vendor listing until satisfactory evidence of correction is presented to the Contract Administrator.

3.19 CONTRACTORS' ACTIVITY REPORTS AND SCHEDULE AND FEE DEPOSIT REQUIREMENTS

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

- Are due upon receipt by the dealer. They are considered late after 10 (ten) business days.
- The SAT 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 SAT, once it has been submitted by the purchasing agency. Administrative late fees will be included on the quarterly report invoice.
- Not sending a copy of a purchase order to the SAT within this time frame can affect a Contractor's ability to be awarded future contracts, as this lack of contract performance will be considered by the VPAC doing contract award procurement.
- Scan a complete copy of the PO and forward by email to kmitman@ncsheriffs.net.
- Place the following in the subject line – PO (dealer's name)

Commission Fees to SAT:

- Reports setting out vehicle 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@ncsheriffs.net.

- 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 SAT 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 SAT or their designee. Copies of Customer's original purchase orders will be used by the SAT 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 SAT 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 the following year's solicitation.

All notices for quarterly reports will be sent by the SAT 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@ncsheriffs.net.

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

3.20 DEALER/CONTRACTOR INSTALLED EQUIPMENT

All Contractors' installed accessories (roll car, 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 factory vehicle factory warranty coverage.

An awarded Contractor that employs or subcontracts technicians to install emergency equipment on vehicles 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 SAT Contract Administrator may at any time during the contract period request proof of the required certification.

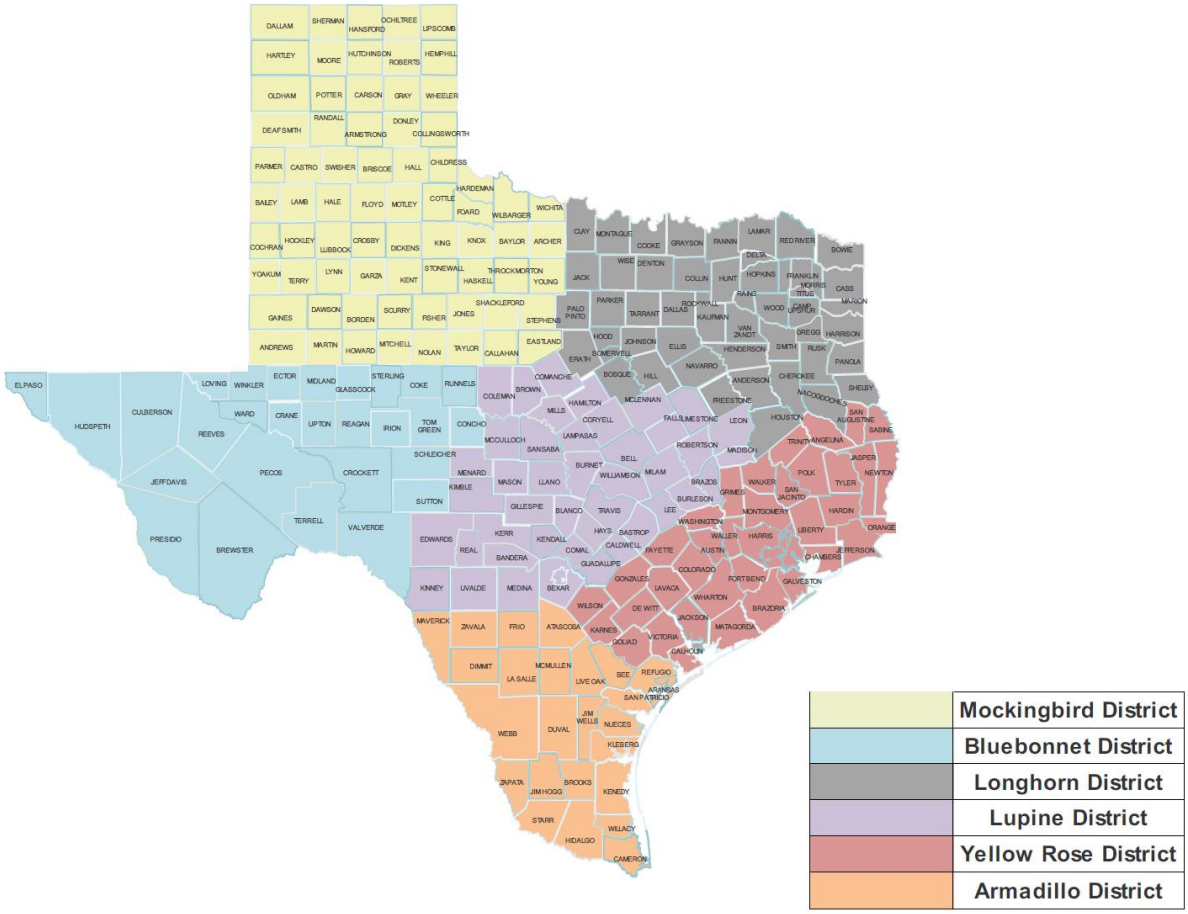
Any awarded Contractor that violates this provision will be considered in default of the contract. The contract may then be terminated upon a ten day written notice of said violation.

3.21 PRODUCTION CUTOFF

A Contractor shall notify the SAT 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, the Contractor must provide the next year's equivalent model at current 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.

Sheriffs' Association of Texas
Procurement Program
Zone Map