STATE of ALASKA DOT/PF STATE EQUIPMENT FLEET CONTRACT FORM
Goods and Non-Professional Services

The parties' contract comprises this Standard Contract Form, as well as its referenced Articles and their associated Appendices

1. DOT/PF Contract Number	2. Contract Title	3. Financial Coding	4. Agency Assigned Encumbrance Number
CA1930-15-3	Contract to Provide Forklifts	As per purchase orders	NA

5. Federal Tax Number	6. SEF Bid Number	7. Vendor Alaska Business License Number
92-0170761	SEF-1930	424227

This contract is between the State of Alaska,

8. Department of	Division	
Transportation/Public Facilities	State Equipment Fleet	hereafter the State, and

9. Contractor				
All Pro Alaska				hereafter the Contractor
Mailing Address	Street or P.O. Box	City	State	ZIP
380	East 54th Avenue	Anchorage	AK	99518
Contact	Phone	E-mail		
James Hill	907-672-5939	sales@allproak.com		

10.

ARTICLE 1. Appendices: Appendices referred to in this contract and attached to it are considered part of it.

ARTICLE 2. Performance of Contract:

2.1 Appendix A 1(General Conditions), Items 1 through 18, govern contract performance.
2.2 Appendix B1 sets forth the liability and insurance provisions of this contract.
2.3 Appendix C sets forth the special terms and conditions governing contract performance.
2.4 Lot 1 through Lot 6 sets forth the minimum specifications for items provided by the contractor under this contract.
2.5 Appendix E sets forth the published order sheets and pricing of items under this contract.
2.6 Appendix F State Equipment Fleet Equipment Reliability Policy.
2.7 Appendix G Approved State Equipment Fleet delivery receipt form.

ARTICLE 3. Period of Performance: The period of performance for this contract begins September 29, 2014, and ends September 29, 2015.

Contract includes provisions to renew up to four (4) additional periods of one (1) year each on the anniversary date of the contract.

ARTICLE 4. Considerations:

4.1 In full consideration of the contractor's performance under this contract, the State shall pay the contractor a sum not to exceed the sum of each State issued purchase order plus actual documented freight charges
4.2 When billing the State, the contractor shall refer to the Agency Contract Number and send the billing to:

11. Department of	Attention: Division of
Transportation DOT/PF	State Equipment Fleet
Mailing Address	Attention:
2200 E. 42nd Avenue Room #318 Anchorage, Alaska 99508	Duane Felton – Contracting Officer II

12. CONTRACTOR	13. CONTRACTING AGENCY
Name of Firm All Pro Alaska	Department/Division Department of Transportation/ Public Facilities State Equipment Fleet
Signature of Authorized Representative Signature on File Copy	Signature of Procurement Officer Signature on File Copy
Typed or Printed Name of Authorized Representative James Hill	Typed or Printed Name of Procurement Officer Duane Felton – Contracting Officer II
Date September 29, 2014	Date September 29, 2014

APPENDIX A

GENERAL CONDITIONS

1. **Inspections and Reports:**
The department may inspect, in the manner and at reasonable times it considers appropriate, all of the contractor's facilities and activities under this contract. The contractor shall make progress and other reports in the manner and at the times the department reasonably requires.

2. **Suitable Materials, Etc.:**
Unless otherwise specified, all materials, supplies or equipment offered by the contractor shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

3. **Disputes:**
If the contractor has a claim arising in connection with the contract that it cannot resolve with the State by mutual agreement, it shall pursue the claim, if at all, in accordance with the provisions of AS 36.30.620-AS 36.30.632

4. **Default:**
In case of default by the contractor, for any reason whatsoever, the State of Alaska may procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

5. **No Assignment or Delegation:**
The contractor may not assign or delegate this contract, or any part of it, or any right to any of the money to be paid under it, except with the written consent of the Procurement Officer.

6. **No Additional Work or Material:**
No claim for additional supplies or services, not specifically provided in this contract, performed or furnished by the contractor, will be allowed, nor may the contractor do any work or furnish any material not covered by the contract unless the work or material is ordered in writing by the Procurement Officer.

7. **Independent Contractor:**
The contractor and any agents and employees of the contractor act in an independent capacity and are not officers or employees or agents of the State in the performance of this contract.

8. **Payment of Taxes:**
As a condition of performance of this contract, the contractor shall pay all federal, State, and local taxes incurred by the contractor and shall require their payment by any subcontractor or any other persons in the performance of this contract. Satisfactory performance of this paragraph is a condition precedent to payment by the State under this contract.

9. **Compliance:**
In the performance of this contract, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws, and be liable for all required insurance, licenses, permits and bonds.

10. **Conflicting Provisions:**
Unless specifically amended and approved by the Department of Law, the terms of this contract supersede any provisions the contractor may seek to add. The contractor may not add additional or different terms to this contract; AS 45.02.207(b)(1). The contractor specifically acknowledges and agrees that, among other things, provisions in any documents it sees to append hereto that purport to (1) waive the State of Alaska's sovereign immunity, (2) impose indemnification obligations on the State of Alaska, or (3) seek to limit liability of the contractor for acts of contractor negligence, are expressly superseded by this contract and are void.

11. **Officials Not to Benefit:**
Contractor must comply with all applicable federal or State laws regulating ethical conduct of public officers and employees.

12. **Contract Prices:**
Contract prices for commodities must be in U.S. funds and include applicable federal duty, brokerage fees, packaging, and transportation cost to the FOB point so that upon transfer of title the commodity can be utilized without further cost. Prices for services must be in U.S. funds and include applicable federal duty, brokerage fee, packaging, and transportation cost so that the services can be provided without further cost.

13. **Contract Funding:**
Contractors are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.

14. **Force Majeure:**
The parties to this contract are not liable for the consequences of any failure to perform, or default in performing, any of their obligations under this Agreement, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this Agreement, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

15. **Contract Extension:**
Unless otherwise provided, the State and the contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect, and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.

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

17. **Continuing Obligation of Contractor:**
Notwithstanding the expiration date of this contract, the contractor is obligated to fulfill its responsibilities until warranty, guarantee, maintenance and parts availability requirements have completely expired.

18. **Governing Law; Forum Selection**
This contract is governed by the laws of the State of Alaska. To the extent not otherwise governed by Article 3 of this Appendix, any claim concerning this contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

APPENDIX B[1]
INDEMNITY AND INSURANCE

Article 1. Indemnification

The Contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the Contractor under this agreement. The Contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the Contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the Contractor and in approving or accepting the Contractor's work.

Article 2. Insurance

Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with and be issued by insurers licensed to transact the business of insurance under AS 21.

2.1 Workers' Compensation Insurance: The Contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the State.

2.2 Commercial General Liability Insurance: covering all business premises and operations used by the Contractor in the performance of services under this agreement with minimum coverage limits of $300,000. combined single limit per claim.

2.3 Commercial Automobile Liability Insurance: covering all vehicles used by the Contractor in the performance of services under this agreement with minimum coverage limits of $300,000. combined single limit per claim.

APPENDIX C
CONTRACT CA1930

1.0 CONTRACT PERIOD:

1.1 The length of this contract will be One (1) calendar year from date of award; with the option to renew for Four (4) additional; One (1) calendar year term. Renewals must be initiated solely by the state. However, the contractor must provide their mutual agreement in order for the contract to be renewed for any additional terms.

2.0 LOCATION OF USE: Statewide

3.0 WARRANTY LOCATION: Anchorage, Alaska at a minimum

4.0 PRICE ADJUSTMENTS:

4.1 Price adjustments, increases or decreases for each contract period/ or new model year change may be requested by providing the Contracting Officer satisfactory evidence that all of the following conditions exist:

4.1.1 The request must be made in writing and submitted to the Contracting Officer 30 days prior to the State and the contractor exercising the renewal option.

4.1.1.1 Contract price adjustment request will be allowed only once annually prior to the start of each renewal contract period.

or

4.1.1.2 Contract price adjustment request will be allowed in the case of a manufactures new model year if a documented increase is passed onto the contractor.

4.1.2 The increase is a result of the increased cost at the manufacturer's level and not costs under the contractor's control, and that;

4.1.2.1 The increase will not produce a higher profit margin for the contractor than that on the original contract, and that;

4.1.2.2 The increase affects only the item(s) that are clearly identified by the contractor.

4.1.2.3 Satisfactory forms of the evidence of the above facts may include a certified invoice from the manufacturer, a letter from the manufacture indicating a price change, or an affidavit from an independent professional price-tracking firm that is recognized by the industry as reputable and knowledgeable. The contractor must be able to show the difference between the prior year's price and the current difference in the price being requested.

4.2 **Price Decreases:**

4.2.1 During the period of the contract all price decreases experienced by the contractor must be passed on to the state. A contractor's failure to strictly and faithfully adhere to this clause, within the time required, will be considered breach of contract.

4.3 **Manufacturer's Rebate (Incentives):**

4.3.1 In any circumstance during or prior to completion of the contract, whereupon the State of Alaska becomes eligible to receive a rebate for any vehicle or equipment purchased under this contract, it shall be the BIDDER'S responsibility to inform the Contracting officer in writing and to advise

5.0 COOPERATIVE PURCHASING:

5.1 In addition to the State of Alaska requirements, the Municipality of Anchorage and other Alaska political subdivisions may cooperatively purchase from the resulting contract.

5.1.1 At no time may the contractor change the terms and conditions, alter the price to another entity, which differs from the contractual price, nor charge undisclosed administrative fees to allow cooperative purchasing.

6.0 EQUIPMENT OFFERED:

6.1 Equipment offered in response to this *contract* must be new equipment. New equipment means equipment that is currently in production by the manufacturer and is still the latest model, edition or version generally offered. The equipment must be warranted as new by the manufacturer and may not have been used for

any purpose, other than display (not demonstration), prior to its sale to the state. The state will not accept remanufactured, used, or reconditioned equipment. It is the contractor's responsibility to ensure that each piece of equipment delivered to the state complies with this requirement. A contractor's failure to comply with this requirement will cause the state to seek remedies under Section II Item 47.0 *CONTRACTOR DEFAULT*

6.2 SUITABLE MATERIALS, ETC.: Unless otherwise specified, all materials, supplies or equipment offered by a bidder shall be new, unused, and of the latest edition, version, model or crop and of recent manufacture.

6.3 Accessories: When accessories are supplied, they must be certified to be compatible with the rest of the equipment. Certification will be written evidence satisfactory to the state that the accessories are compatible. The bidder's failure to supply this evidence within the time required by the state will cause the state to consider the bid non-responsive and reject the bid.

7.0 DISCONTINUED ITEMS: In the event an item is discontinued by the manufacturer during the life of the contract, another item may be substituted, provided that the contracting officer makes a written determination that it is equal to or better than the discontinued item and provided that it is sold at the same price or less than the discontinued item.

8.0 ITEM UPGRADES: The state reserves the right to accept upgrades to models on the basic contract when the upgrades improve the way the equipment operates or improve the accuracy of the equipment. Such upgraded items must be at the same price as the items in the basic contract.

9.0 WARRANTY:

9.1 **Standard Warranty Package:** Contractor will provide a one-year (12-month) warranty.

9.1.1 Full (100%) Parts and Labor Warranty Coverage of all components for 12 months (year one), from the date the unit is placed in service at the assigned location.

9.1.2 Full (100%) Warranty Coverage includes all cost of labor, parts, freight, lubricants, miscellaneous cost, etc., to place the unit in like-new condition.

9.1.3 Should the manufacturer's standard warranty exceed the minimum State warranty requirements, the manufacturer's warranty will run in conjunction with and enhance the State's warranty, then continue for the remainder of its term.

9.1.4 For clarification, warranty does not apply to normal wear and tear or maintenance items, accident damages, misuse of equipment or failure to operate or maintain equipment as prescribed by vendor/manufacturer.

9.1.5 Warranty on Attachments: Same as Standard Warranty Package.

9.1.6 In-Service Date: Warranty on vehicles not placed in service immediately upon receipt because of time lag to construct body components and/or installation of special equipment, or due to seasonal usage or other delay, shall be warranted from the date the vehicle is placed in service. The receiving agency shall notify the vendor/manufacturer in writing of the actual "in service" date. Notification of the requirement for delayed warranty will be provided on delivery orders whenever possible.

9.2 **Warranty Claims:**

9.2.1 Warranty will be provided at the unit's assigned (in-service) location. Because of the remote location of some equipment it is not always practical to deliver equipment to authorized warranty repair facilities. In these cases, the vendor may perform warranty work at the state's location or, the State of Alaska, at its discretion, reserves the right to perform the warranty work and be reimbursed by the vendor. If travel is required by State personnel to perform the work, actual costs will be used for reimbursement.

9.2.2 The State of Alaska has established a warranty procedure whereby the vendor is to be notified via letter, email, or fax, that warranty work needs to be performed. If time is of the essence, a telephone call confirmed by one of the above written procedures may be utilized.

9.2.3 The vendor must notify the state within 24 hours of verbal or written notification that it will <u>begin to perform</u> the warranty work at the equipment location.

9.2.4 The State may, at its discretion, proceed to make warranty repairs with its own work force in the

case of emergency situation or to preclude excessive downtime (greater than 24 hours). The State will require a PO to perform the warranty work.

9.2.5 Failure to notify the State that the vendor intends to begin to perform warranty is considered a contractual breach.

9.2.6 The vendor will be invoiced for required warranty work performed by the state. Warranty work performed by the state will be charged at the current SEF shop labor rate at the time of the repair. Actual repair time will be used.

9.3 **Warranty Performed by Vendor:**

9.3.1 The State will reimburse travel costs not reimbursed by the manufacturer for travel to and from the bidder's closest warranty service center within the State of Alaska to the location of the equipment under warranty. Vendors travel costs will be billed to the State Equipment Fleet as follows:

9.3.1.1 Mileage Charge: Mileage claimed by vendor will only be reimbursed for travel by ground vehicle within Alaska at the rate allowable by the IRS. Google maps or similar program will be used in calculating driven mileage from vendor's location to the equipment's assigned service location.

9.3.1.2 Meals are paid at actual and charges must be accompanied by receipts and are not to exceed the State authorized ***$60.00 per day***.

9.3.1.3 Transportation, such as airfare, shall be reimbursed at actual and all charges are to be accompanied by a receipt/copy of the coach ticket.

9.3.1.4 Lodging shall be reimbursed at actual and shall ***not exceed $150.00*** per night unless no other lodging is available. Requests for reimbursement must be accompanied by a receipt.

9.3.2 Travel will only be reimbursed for time in Alaska.

9.3.3 After hours, weekend and holiday travel must be approved by the contracting officer to be considered for reimbursement. The State will not pay for time due to weather delays.

9.4 **Authorized Warranty Locations (Contractor/Bidder):**

9.4.1 Contractor (bidder) must be an Authorized Warranty Dealer with location or locations (as specified in Section I Item 3.0) that has all required licenses, facilities and factory certified and trained personnel necessary to perform the warranty servicing and repair work on the item or equipment being bid.

9.4.2 The ultimate responsibility for any and all warranty lies with the contractor (bidder).

9.4.3 The State reserves the right to inspect the certification credentials of technicians, warranty facility and diagnostic equipment prior to issuing the Notice of Intent to Award a contract.

9.5 **Service Technicians Qualifications**: Letter on file.

10.0 COMPLETION OF WARRANTY SERVICE: The service will not be complete and the equipment will not be considered serviced, repaired, or acceptable until it performs in compliance with the manufacturer's published performance specifications.

11.0 SERVICE CHARGES: Regardless whether the contractor repairs equipment on-site or off-site, the state will not be liable for any charges associated with the repair of broken equipment, including, but not limited to, unhooking, disassembly, packaging, crating, repair, transportation, replacement, reassembly, or rewiring.

12.0 WORKMANSHIP & MATERIALS: All design, fabrication, or warranty work must be performed in a thorough and workmanlike manner and in accordance with current industry practices. The contractor will be held responsible for the quality of the finished item. The state will reject any item that does not meet the specifications of the ITB. Rejected items will be returned to the contractor at the contractor's risk and expense.

13.0 REPAIR ORDERS AND DOCUMENTATION:

13.1 Any work performed by the contractor or approved subcontractor, whether warranty or any other work on a piece of equipment purchased under this ITB, will require a copy of the repair order, any invoices showing

parts and commodities including oils and types used.

14.0 FACTORY/MANUFACTURES RECALLS and SERVICE BULLETINS:

14.1 Recalls:

14.1.1 Nationwide factory recall or product update programs are the responsibility of the vendor and/or manufacturer. The State will attempt to bring affected equipment to an authorized repair facility. However, because of the remoteness of some equipment this is not always practicable or economical. In such cases, factory recall and modification work will be handled the same as warranty work. Factory recall notices sent to the state should, in addition to serial number, include model, year, and dealer.

14.2 Service Bulletins, Etc.:

14.2.1 The successful bidder must provide appropriate service bulletins, technical support bulletins, service letters, product support bulletins, and/or any other information type notifications that are sent out to the vendor or used by the manufacturer in the maintenance and report of the vehicle, equipment or attachments being provided. The intent of this clause is that the State of Alaska be provided notification of any and all changes or improvement's that may affect the maintenance, reliability, longevity, and safety of our equipment.

15.0 REPLACEMENT PARTS AND REPAIRS:

15.1 This contract encompasses a full parts and labor contract for manufacturer parts and repairs for the entire warranty period.

15.2 Only parts designed for the purpose they are being used, and warranted as new, may be used in the repair of state equipment.

15.3 The State of Alaska shall expect the dealer or manufacturer to provide replacement wear parts at their authorized warranty facilities for the entire warranty period within seven (7) days of order. All other parts must be available within ten (10) working days.

15.4 Back order procedures: Back orders are acceptable; however, the ordering shop shall be appraised at time of original orders as to the expected delay in delivery.

15.5 Warranty: All products supplied by the contractor shall be warranted against defects in materials and workmanship for a minimum of 90 days, commencing at the time of installation as long as the installation is within 12 months of purchase. The cost of any defective product and the labor required to replace the defective product shall be the obligation of the contractor.

15.5.1 If the manufacturer's warranty exceeds the stated warranty then manufacturer's warranty supersedes.

15.5.2 Parts Return: Within 12 months of the invoice date, the State is to be allowed to return new parts with full refund, less actual shipping charges. **Cores returned within 12 months of original invoice date will receive full core credit**. Returned parts will be in new, re-sellable condition. Refund will be in the form of a credit/invoice credited to the SOA account with the vendor.

15.5.3 Invoicing: Full description of item is required on all invoices, packing lists and billings.

16.0 PUBLICATIONS:

16.1 Publications will be ordered on a separate purchase order, or combined with the diagnostic/software purchase order and shall be billed on a separate invoice from the vendor.

16.2 Paper publications and or electronic versions as ordered are to be shipped with delivery receipt signature request or hand delivered with signed delivery receipt to the attention of the State Equipment Fleet District Manager at the address designated on the purchase order.

16.2.1 All ordered publications must be received within 30 days of the equipment delivery to the final destination.

16.2.2 All paper manuals are to be pre-assembled in factory binders prior to delivery.

16.2.3 Electronic publications in the format of CD, DVD, Thumb Drive or on-line accessibility to publications may be requested.

16.2.4 Any subscription fees and pricing for publications must be clearly stated on the Price Schedule submitted with your bid.

16.3 **Service Manuals:**

16.3.1 Complete set(s) to include applicable information covering prime unit and attachments:

16.3.2 Body, chassis, and electrical

16.3.3 Engine, transmission, and differential(s) (service and rebuild)

16.3.4 Electrical and vacuum troubleshooting

16.3.5 Wiring diagrams

16.3.6 Service specifications

16.3.7 Engine/emission diagnosis

16.4 **Parts Manuals:**

16.4.1 Complete set(s) including all updates. If updates are not provided during the warranty period, the State may order them from the manufacturer and bill the contractor for the full cost, including shipping.

16.4.2 Parts manuals are to be customized by serial number.

16.5 **Operator's Manuals:** Complete set(s) to include prime unit and attachments.

16.6 **Quantities:** As per Section IV – Bid Price Schedule.

17.0 EQUIPMENT TRAINING:

17.1 Training when requested in the specifications on new or used equipment purchased under this ITB contract will be ordered on a separate purchase order.

17.2 Training is required to be billed on a separate invoice.

17.3 All training ordered under this contract will be coordinated, scheduled, and approved for payment after completion by the State Equipment Fleet District Manager designated on the issued purchase order.

18.0 DIAGNOSTIC HARDWARE, SOFTWARE:

18.1 Unless otherwise specified the software must be the latest edition or version. If during the calendar day period specified that the vendor must hold the price firm as listed in Section I Item 7.0 of the bid specification , a new edition or version is introduced, the state reserves the sole right to choose to buy the old version at the bid price; to buy the new version at the bid price; or, to cancel the item from the ITB.

18.2 Diagnostic hardware (cables, laptop computers etc.), software, software renewals, subscriptions, and related items when ordered will be ordered one a separate purchase order or combined with the publications purchase order and shipped with delivery receipt signature request or hand delivered with signed delivery receipt to the State Equipment Fleet District Manager at the address designated on the purchase order.

19.0 DELIVERY:

19.1 **Pre-delivery service:** Prior to delivery, each vehicle, piece of equipment or attachment shall be serviced and inspected by the dealer or his agent. Inspection must include the following (as applicable to the type of equipment):

19.1.1 Dealer and vehicle identification.

19.1.2 Check-off of service and inspection performed including a list of all fluids including type weight and specification that are in the equipment as delivered for all fluid compartments.

19.1.3 The vehicle's crankcase, differential and transmission, and other fluid compartments shall be filled to the manufacturer's recommended capacity.

19.1.4 Fuel tank shall be filled to at least register a minimum ¼ full on the fuel gauge, unless restricted by the commercial carrier, when the vehicle arrives at the delivery location.

19.1.5 The vehicle shall be clean and free from defects when delivered and should be ready for

immediate and continued use upon delivery.

19.1.6 Units delivered in an incomplete state, or which have deficiencies per the specification, are subject to the damage charges as noted in Section I Item 21.2.

19.2 **Advance Notice of Delivery:**

19.2.1 The contractor must notify the freight company that delivers the order that the state facility receiving the order requires 24 hours advance notice of delivery.

19.3 **Delivery Receipt:**

19.3.1 A State provided delivery receipt will be required to be provided at time of delivery with every item delivered under this contract. The delivery receipt must be filled out by the vendor, and acknowledged by state receiving personnel by signature and date of actual receipt of equipment. One copy of this delivery receipt is to be given to the state-receiving agency.

19.3.2 If a third party carrier is delivering on behalf of the contractor, the carriers shipping documents must include at a minimum a copy of the delivery receipt with the State of Alaska's purchase order number referenced.

19.3.3 Vendors are cautioned and advised that such delivery forms or other receiving type documents will not in any way be construed to mean the state has formally and fully accepted unit(s) referenced thereon as complete and meeting every specification set forth. Only the Contracting Officer or designee may sign warranty documentation.

19.3.4 (*) **The Equipment delivery check list and delivery receipt form Appendix G shall be utilized and completed by the contractor and delivered with the equipment**.

19.4 **Inspections Upon Delivery:**

19.4.1 The State's initial delivery inspection of all materials and equipment upon delivery is for the sole purpose of identification. Such inspection shall not be construed as final or as acceptance of the materials or equipment if materials or equipment do not conform to Contract requirements. If there is any apparent shipping damage or manufactures defects in the materials or equipment at the time of delivery, the State will notate the shipper's documents of damages when possible, and promptly notify the Contractor of damages or defects thereof. Without limiting any other rights of the State, The State at its option, may require the Contractor to:

19.4.1.1 repair or replace at contractor's expense, any or all of the damaged goods,

19.4.1.2 refund the price of any or all of the damaged goods, or

19.4.1.3 accept the return of any or all of the damaged goods.

19.4.2 Costs to the State of Alaska of remedying all defects, indirect and consequential costs of correcting same, and/or removing or replacing any or all of the defective materials or equipment will be charged against the bidder.

19.5 **Shipping Damage:**

19.5.1 The state will not accept or pay for damaged goods.

19.5.2 The contractor must file all claims against the carrier(s) for damages incurred to items in transit from the point of origin to the ultimate destination.

19.5.3 The state will provide the contractor with written notice when damaged goods are received.

19.5.4 The state will deduct the cost of the damaged goods from the invoice prior to payment if damage is repaired by the State.

19.5.5 The contractor must file all claims against the carrier(s) for reimbursement of the loss.

19.6 **Inspection for Final Acceptance:**

19.6.1 It is the vendors' responsibility to ensure that items ordered under this contract will comply with all specification and contract requirements, and the item is ready to be put into immediate service prior to delivery to the final destination.

19.6.2 After the initial delivery inspection, within 10 business days State personnel will do a detailed and thorough inspection of the equipment to verify it meets the contract specification requirements.

19.6.3 If deficiencies are found during the check-in and review of the contract specification compliance process, the vendor will be notified in writing of any deficiencies that need corrected.

19.6.4 Units will not be considered "Accepted" or payment authorized until all deficiencies have been corrected.

20.0 INSPECTION OF LEASED OR USED EQUIPMENT: Leased or used equipment will not be accepted for this ITB, Items offered must be new.

21.0 DAMAGES FOR LATE DELIVERY AND NON-CONFORMING GOODS:

21.1 Time is of the essence in this contract. The Bidder is expected to deliver goods that conform in all material respects to the contract specifications on or before the date provided therein, as may be amended by written agreement of the parties.

21.2 In the event that the equipment is delivered late or does not conform to the contract specifications, the State shall be entitled to offset against the Contract Price, as liquidated damages and not as a penalty, an amount equal to the cost of renting like equipment, multiplied by the number of calendar days elapsing between the delivery date provided in the bid schedule and the delivery date to the State. In the case of equipment in this this class, that daily rental fee is determined to be **$ 75.00** .The number of days for which liquidated damages shall apply shall include, in the case of non-conforming goods, the time reasonably necessary for the State to perform inspection.

21.3 As an option at the States discretion in lieu of charging monetary liquidated damages, the State may request the contractor to provide a comparable model equipment as a loaner unit at no cost to the State until the ordered equipment arrives and is accepted by the State. The vendor would be responsible for all transportation costs and fees to deliver and pick up the unit at its service destination.

21.4 These liquidated damages represent a reasonable estimate of amounts necessary to compensate the State for loss of use of the goods during the period in which the goods would have been available to the State if conforming goods had been timely delivered.

22.0 EQUIPMENT RELIABILITY POLICY:

22.1 Reliability of equipment is of paramount importance to the State. It is the policy of SEF to require minimum levels of reliability from owned or leased equipment for it to be considered acceptable. Equipment offered for this bid must be capable of meeting the acceptable reliability standard stated in the attached document (***SEF Equipment Reliability Policy***) **Refer to Appendix F.**

23.0 STATEMENT OF ORIGIN/TITLE:

23.1 The bidder will be required to furnish a Manufacturer's Statement of Origin for Automotive or Non-Automotive rolling stock for each unit. All such documents shall be delivered with the invoice to:

DOT&PF, HQ State Equipment Fleet
2200 E. 42nd Avenue Room #318
Anchorage, Alaska 99508

23.2 Ownership of and title will remain with the contractor until delivery is complete to final destination and accepted by the State.

24.0 WEIGHT VERIFICATION SLIPS: A weight scale ticket is not required for this contract.

25.0 F.O.B. POINT/SHIPPING CHARGES:

25.1 For bid pricing purposes of this ITB, the cost of shipping and delivery to the F.O.B. point is Seattle/Tacoma WA. Dockside and is to be included in the bid price. The cost of shipping and delivery for orders beyond the limits of the Seattle/Tacoma WA. Dockside will be handled as follows.

25.1.1 The contractor will prepay the shipping and delivery charges to any destination named by the State in its order.

25.1.2 The contractor will charge-back those shipping and delivery charges to the State

as a separate line item on the State's invoice.

25.1.3 All shipping charges over $100 must be documented by a copy of the actual shipping invoice and received with the invoice to the State.

25.1.4 Equipment is not to be driven on the Alcan Highway without prior written approval from the Contracting Officer.

25.2 Shipping must be consolidated for the best possible price.

25.2.1 Shipping items separately must be pre-approved by the Contracting Officer *PRIOR* to shipment. For example, GP Bucket or Spare Tire not being shipped with host unit must be pre-approved.

25.2.2 All shipping charges over $100 must be documented by a copy of the actual shipping invoice and received with the invoice charge to the State.

25.3 The actual F.O.B. point for all items purchased under this contract is the final destination as listed on the purchase order issued. Ownership of and title to the ordered items remains with the contractor until the items have been delivered to their final destination and accepted by the State

MANDATORY CONTRACT TERMS:

1.0 COMPLIANCE WITH ADA: By signature of their bid the bidder certifies that they comply with the Americans with Disabilities Act of 1990 and the regulations issued thereunder by the federal government.

Services or activities furnished to the general public on behalf of the state must be fully accessible. This is intended to ensure that agencies are in accordance with 28 CFR Part 35 Section 35.130 and that services, programs or activities furnished to the public through a contract do not subject qualified individuals with a disability to discrimination based on the disability.

2.0 NONDISCLOSURE AND CONFIDENTIALITY: Contractor agrees that all confidential information shall be used only for purposes of providing the deliverables and performing the services specified herein and shall not disseminate or allow dissemination of confidential information except as provided for in this section. The contractor shall hold as confidential and will use reasonable care (including both facility physical security and electronic security) to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, the confidential information. "Reasonable care" means compliance by the contractor with all applicable federal and state law, including the Social Security Act and HIPAA. The contractor must promptly notify the state in writing if it becomes aware of any storage, disclosure, loss, unauthorized access to or use of the confidential information.

Confidential information, as used herein, means any data, files, software, information or materials (whether prepared by the state or its agents or advisors) in oral, electronic, tangible or intangible form and however stored, compiled or memorialized that is classified confidential as defined by State of Alaska classification and categorization guidelines (i) provided by the state to the contractor or a contractor agent or otherwise made available to the contractor or a contractor agent in connection with this contract, or (ii) acquired, obtained or learned by the contractor or a contractor agent in the performance of this contract. Examples of confidential information include, but are not limited to: technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data (infrastructure, architecture, operating systems, security tools, IP addresses, etc).

If confidential information is requested to be disclosed by the contractor pursuant to a request received by a third party and such disclosure of the confidential information is required under applicable state or federal law, regulation, governmental or regulatory authority, the contractor may disclose the confidential information after providing the state with written notice of the requested disclosure (to the extent such notice to the state is permitted by applicable law) and giving the state opportunity to review the request. If the contractor receives no objection from the state, it may release the confidential information within 30 days. Notice of the requested disclosure of confidential information by the contractor must be provided to the state within a reasonable time after the contractor's receipt of notice of the requested disclosure and, upon request of the state, shall seek to obtain legal protection from the release of the confidential information.

The following information shall not be considered confidential information: information previously known to be public information when received from the other party; information freely available to the general public; information which now is or hereafter becomes publicly known by other than a breach of confidentiality hereof; or information which is disclosed by a party pursuant to subpoena or other legal process and which as a result becomes lawfully obtainable by the general public.

3.0 CONTRACT PERFORMANCE LOCATION: By signature on their bid, the bidder certifies that all services provided under this contract by the contractor and all subcontractors shall be performed in the United States.

If the bidder cannot certify that all work will be performed in the United States, the bidder must contact the procurement officer in writing to request a waiver at least 10 days prior to the deadline for receipt of bids.

The request must include a detailed description of the portion of work that will be performed outside the United States, where, by whom, and the reason the waiver is necessary.

Failure to comply with these requirements may cause the state to reject the bid as non-responsive, or cancel the contract.

4.0 HUMAN TRAFFICKING: By signature on their bid, the bidder certifies that the bidder is not established and headquartered or incorporated and headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: http://www.state.gov/g/tip/

Failure to comply with this requirement will cause the state to reject the bid as non-responsive, or cancel the contract.

5.0 CONSUMER ELECTRICAL PRODUCT: AS 45.45.910 requires that "...a person may not sell, offer to sell, or otherwise transfer in the course of the person's business a consumer electrical product that is manufactured after August 14, 1990, unless the product is clearly marked as being listed by an approved third party certification program." Electrical consumer products manufactured before August 14, 1990, must either be clearly marked as being third party certified or be marked with a warning label that complies with AS 45.45.910 €. Even exempted electrical products must be marked with the warning label. By signature on this bid the bidder certifies that the product offered is in compliance with the law. A list of approved third party certifiers, warning labels and additional information is available from: Department of Labor and Workforce Development, Labor Standards & Safety Division, Mechanical Inspection Section, P.O. Box 107020, Anchorage, Alaska 99510-7020, (907)269-4925.

CONTRACT BILLING and PAYMENT INFORMATION:

6.0 CONTRACT FUNDING: Bidders are advised that funds are available for the initial purchase and/or the first term of the contract. Payment and performance obligations for succeeding purchases and/or additional terms of the contract are subject to the availability and appropriation of funds.

7.0 BILLING INSTRUCTIONS: Invoices must be billed to the ordering agency's address shown on the individual Purchase Order, Contract Award or Delivery Order, not to the Division of General Services. The ordering agency will make payment after it receives the merchandise or service and the invoice. Questions concerning payment must be addressed to the ordering agency.

8.0 PAYMENT FOR STATE PURCHASES: Payment for agreements under $500,000 for the undisputed purchase of goods or services provided to a state agency, will be made within 30 days of the receipt of a proper billing or the delivery and acceptance of the goods or services to the location(s) specified in the agreement, whichever is later. A late payment is subject to 1.5% interest per month on the unpaid balance. Interest will not be paid if there is a dispute or if there is an agreement that establishes a lower interest rate or precludes the charging of interest.

9.0 VENDOR TAX ID NUMBER: If goods or services procured through this ITB are of a type that is required to be included on a Miscellaneous Tax Statement, as described in the Internal Revenue Code, a valid tax identification number must be provided to the State of Alaska before payment will be made.

CONTRACT ADMINISTRATION INFORMATION:

10.0 CONFLICT OF INTEREST: An officer or employee of the State of Alaska may not seek to acquire, be a party to, or possess a financial interest in, this contract if (1) the officer or employee is an employee of the administrative unit that supervises the award of this contract; or (2) the officer or employee has the power to take or withhold official action so as to affect the award or execution of the contract.

11.0 INSURANCE: Without limiting contractor's indemnification, it is agreed that contractor shall purchase at its own expense and maintain in force at all times during the performance of services

under this agreement the following policies of insurance. Where specific limits are shown, it is understood that they shall be the minimum acceptable limits. If the contractor's policy contains higher limits, the state shall be entitled to coverage to the extent of such higher limits. Certificates of Insurance must be furnished to the contracting officer prior to beginning work and must provide for a notice of cancellation, non-renewal, or material change of conditions in accordance with policy provisions. Failure to furnish satisfactory evidence of insurance or lapse of the policy is a material breach of this contract and shall be grounds for termination of the contractor's services. All insurance policies shall comply with, and be issued by insurers licensed to transact the business of insurance under AS 21.

Prior to the issuance of any contract under this ITB, Proof of insurance will be required for State Equipment Fleet Contract Records for the following:

Workers' Compensation Insurance: The contractor shall provide and maintain, for all employees engaged in work under this contract, coverage as required by AS 23.30.045, and; where applicable, any other statutory obligations including but not limited to Federal U.S.L. & H. and Jones Act requirements. The policy must waive subrogation against the state.

Commercial General Liability Insurance: covering all business premises and operations used by the contractor in the performance of services under this agreement with minimum coverage limits of $300,000 combined single limit per occurrence.

Commercial Automobile Liability Insurance: covering all vehicles used by the contractor in the performance of services under this agreement with minimum coverage limits of $300,000 combined single limit per occurrence.

Failure to supply satisfactory proof of insurance within the time required will cause the state to declare the bidder non-responsible and to reject the bid.

12.0 THIRD-PARTY FINANCING AGREEMENTS NOT ALLOWED:

12.1 Regardless of the terms and conditions of any third-party financing agreement, the contractor agrees that none of its responsibilities under this contract are transferable and that the contractor alone will continue to be solely responsible until the expiration date of the contract. Such responsibilities include, but are not limited to, the provision of equipment, training, warranty service, maintenance, parts and the provision of consumable supplies. By signature on the face page of this ITB the bidder acknowledges this requirement and indicates unconditional acceptance of this continuing obligation clause.

12.2 Because of the additional administrative and accounting time required of state agencies when third party financing agreements are permitted, they will not be allowed under this contract.

13.0 ORDER DOCUMENTS: Except as specifically allowed under this ITB, an ordering agency will not sign any vendor contract. The State is not bound by a vendor contract signed by a person who is not specifically authorized to sign for the State under this ITB. The State of Alaska Purchase Order, Contract Award and Delivery Order are the only order documents that may be used to place orders against the contract(s) resulting from this ITB.

14.0 ALTERATIONS: The contractor must obtain the written approval from the contracting officer prior to making any alterations to the specifications contained in this ITB. The state will not pay for alterations that are not approved in advance and in writing by the contracting officer.

15.0 COMPLIANCE: In the performance of a contract that results from this ITB, the contractor must comply with all applicable federal, state, and borough regulations, codes, and laws; be liable for all required insurance, licenses, permits and bonds; and pay all applicable federal, state, and borough taxes.

16.0 CONTINUING OBLIGATION OF CONTRACTOR: Notwithstanding the expiration date of a contract resulting from this ITB, the contractor is obligated to fulfill its responsibilities until all warranty, guarantee, maintenance and parts availability requirements have completely expired.

17.0 CONTRACT EXTENSION: Unless otherwise provided in this ITB, the State and the successful bidder/contractor agree: (1) that any holding over of the contract excluding any exercised renewal options, will be considered as a month-to-month extension, and all other terms and conditions shall remain in full force and effect and (2) to provide written notice to the other party of the intent to cancel such month-to-month extension at least thirty (30) days before the desired date of cancellation.

18.0 CONTRACT ADMINISTRATION: The administration of this contract is the responsibility of the State of Alaska Department of Transportation State Equipment Fleet Contracting Officer.

19.0 DISPUTES: If a contractor has a claim arising in connection with a contract resulting from this ITB that it cannot resolve with the State by mutual agreement, it shall pursue a claim, if at all, in accordance with the provisions of AS 36.30.620 – 632.

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

21.0 GOVERNING LAW; FORUM SELECTION: A contract resulting from this ITB is governed by the laws of the State of Alaska. To the extent not otherwise governed by Section II Item 22 of these Standard Terms and Conditions, any claim concerning the contract shall be brought only in the Superior Court of the State of Alaska and not elsewhere.

22.0 CONTRACT CANCELLATION: The state reserves the right to cancel the contract at its convenience upon 30 calendar days written notice to the contractor. The state is liable only for payment in accordance with the payment provisions of this contract for services or supplies provided before the effective date of termination.

23.0 CONTRACTOR DEFAULT: In case of default by the contractor, for any reason whatsoever, the State of Alaska may cancel the remaining term of the contract, procure the goods or services from another source and hold the contractor responsible for any resulting excess cost and may seek other remedies under law or equity.

24.0 FORCE MAJEURE (Impossibility to perform): The parties to a contract resulting from this ITB are not liable for the consequences of any failure to perform, or default in performing, any of its obligations under the contract, if that failure or default is caused by any unforeseeable Force Majeure, beyond the control of, and without the fault or negligence of, the respective party. For the purposes of this ITB, Force Majeure will mean war (whether declared or not); revolution; invasion; insurrection; riot; civil commotion; sabotage; military or usurped power; lightning; explosion; fire; storm; drought; flood; earthquake; epidemic; quarantine; strikes; acts or restraints of governmental authorities affecting the project or directly or indirectly prohibiting or restricting the furnishing or use of materials or labor required; inability to secure materials, machinery, equipment or labor because of priority, allocation or other regulations of any governmental authorities.

25.0 INDEMNIFICATION: The contractor shall indemnify, hold harmless, and defend the contracting agency from and against any claim of, or liability for error, omission or negligent act of the contractor under this agreement. The contractor shall not be required to indemnify the contracting agency for a claim of, or liability for, the independent negligence of the contracting agency. If there is a claim of, or liability for, the joint negligent error or omission of the contractor and the independent negligence of the Contracting agency, the indemnification and hold harmless obligation shall be apportioned on a comparative fault basis. "Contractor" and "Contracting agency", as used within this and the following article, include the employees, agents and other contractors who are directly responsible, respectively, to each. The term "independent negligence" is negligence other than in the Contracting agency's selection, administration, monitoring, or controlling of the contractor and in approving or accepting the contractor's work.