

**MASTER AGREEMENT**


ADVANTAGE CONTRACT #: 18P 24121600000000000063	
COMMODITY/SERVICE DESCRIPTION: TYGR GRADER SERIES GC-36-72	
START DATE: 1/9/2025	END DATE: 12/31/2025

This Contract is between the following State of Maine Department and Provider:


STATE OF MAINE DEPARTMENT		
DEPARTMENT NAME: Office of State Procurement Services		
ADDRESS: 111 Sewall St., 4 <sup>th</sup> Floor Burton Cross Office Building, SHS# 9		
CITY: Augusta	STATE: ME	ZIP CODE: 04333-009
PROVIDER		
PROVIDER NAME: TK Industries		
ADDRESS: PO Box 1045		
CITY: Laramie	STATE: WY	ZIP CODE: 82073
PROVIDER'S VENDOR CUSTOMER #: VS0000001538		

Each signatory below represents that the person has the requisite authority to enter into this Contract.

Department Representative:

DocuSigned by:  
  
 2A644AF5681F482...  
 David Morris, Acting CPO  
 Date 1/7/2025

Provider Representative:

Signed by:  
  
 5D6B12F6FF034A0...  
 Miriam Cohen, Office Supervisor  
 Date 1/7/2025

*The contract is fully executed when all parties sign and funds have been encumbered. Upon final approval by the Office of State Procurement Services, a case details page will be made part of this contract.*

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**DEPARTMENT AND PROVIDER POINT OF CONTACT and PROCUREMENT METHOD**

PROCUREMENT SERVICES MA MANGER: The Procurement Services MA Manager manages the MA contract documents. All other communication is to be with the agency the services were provided to.

NAME: William Allen	
EMAIL: <a href="mailto:wje.allen@maine.gov">wje.allen@maine.gov</a>	TELEPHONE: 207-624-7871

VENDOR CONTACT: The vendor contact person will help consumers place orders, inquire about orders that have not been delivered, all shipping issues, quality issues and any issues pertaining to the Master Agreement (MA) contract. All orders not submitted through a Delivery Order will be sent through the vendor contact person. The vendor contact person for this MA is:

NAME: Miriam Cohen	
EMAIL: <a href="mailto:tki@wyoming.com">tki@wyoming.com</a>	TELEPHONE: 307-742-5141

Any changes to the individuals identified above may be changed at any time through written notice by either party.

**Procurement Method:** RFQ 17D 241107-111

<b>TABLE OF RIDERS</b>
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The following riders are hereby incorporated into this Contract and made part of it by reference.	
<input checked="" type="checkbox"/>	RIDER A – Commodity Specifications, User Information
<input checked="" type="checkbox"/>	RIDER B – Terms and Conditions
<input type="checkbox"/>	RIDER C – Exceptions
<input checked="" type="checkbox"/>	Appendix F from RFQ 17D 241107-111 – MaineDOT Certifications
<input checked="" type="checkbox"/>	Appendix G from RFQ 17D 241107-111 – MaineDOT Terms and Conditions
<input checked="" type="checkbox"/>	RIDER G – Debarment, Performance, and Non-Collusion Certification

**RIDER A: COMMODITY SPECIFICATIONS / USER INFORMATION****TABLE OF CONTENTS**

- I. COMMODITY
- II. AMENDMENTS TO SPECIFICATIONS/SCOPE OF WORK
- III. CONTRACT PERIOD
- IV. EXTENSION COST DETAIL
- V. AUTHORIZED USER
- VI. ORDERING PROCEDURE
- VII. CONTRACTED PRICING/RATES
- VIII. SPECIFICATIONS/SCOPE OF WORK

**I. COMMODITY: TYGR Graders Series GC-36-72**

The State reserves the right to add other similar items or commodities to the Master Agreement (MA) if it's in the State's best interest but does not obligate the State to purchase similar noncontracted items or commodities from the selected bidder.

**II. AMENDMENTS TO SPECIFICATIONS/SCOPE OF WORK**

Not Applicable

**III. CONTRACT PERIOD:**

Start [insert start date] through [insert end date]

Following the initial term of the contract, the Department, at their discretion, may opt to extend / renew the contract for up to four (4) one (1) year extension periods.

- ☒ Initial Term
- ☐ First Renewal
- ☐ Second Renewal
- ☐ Third Renewal
- ☐ Fourth Renewal

**IV. EXTENSION COST DETAIL**

Not applicable

**V. AUTHORIZED USER:****State of Maine Departments authorized to utilize this MA contract:**

All State of Maine Departments, Agencies

**Municipalities, political subdivisions, and school districts in Maine:**

☒ Are permitted to utilize this MA as written.

**VI. ORDERING PROCEDURES:**

Delivery Orders (DO) will be created in AdvantageME for all orders over \$5000.00. DO's will be emailed as a .pdf file to the vendor's email address referenced on the MA.

Municipalities, political subdivisions, and school districts in Maine will handle their own orders and will be responsible for all payments.

**Quantities:** It is understood and agreed that the MA will cover the actual quantities required by the State over the length of the contract.

**Delivery Locations:** The vendor must deliver to any State of Maine facility. All units ordered by MaineDOT will be delivered to 66 Industrial Drive, Augusta.

**Delivery and Inspection:** The vendor is responsible for the delivery of material in first class condition at the point of delivery, and in accordance with good commercial practice. The sign blanks ordered from the resulting MA will be inspected after delivery. If shipments are deemed unacceptable the delivery will be refused and will be returned at the risk and expense of the selling vendor.

**VII. CONTRACTED PRICING/RATES**

\$54,284.00 each

**Prices:** Prices are with shipping terms of "Free on Board (FOB) – Destination". The State intends for this to mean that all goods shall be priced to include shipping charges, if any, to the State's desired location. The "FOB – Destination" shipping term is also intended to mean that the State shall not bear any responsibility for the goods in question until the State takes possession of them at the destination point of delivery.

**Price and Rate Guarantee Period:** All quoted prices and rates must be guaranteed for and must remain firm for minimally one year of the initial contract period. Any approved price or rate adjustments must be held firm for minimally one year or the remainder of the contract period. Price adjustment requests must be made by the vendor at least sixty (60) days prior to the effective date. Requests for price adjustments must include sufficient documentation from

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the manufacture supporting the request. The price adjustment will not go into effect until the contract amendment has been fully approved by the State of Maine.

#### **VIII. SPECIFICATIONS/SCOPE OF WORK:**

**Intent:** The purpose and intent of these minimum specifications is to describe a **TYGR GRADER-SERIES GC-36-72**. It must be of heavy-duty design to deliver dependable service under severe operating conditions. Unit bid shall be currently produced with all the latest standard features whether or not called for in these specifications.

**Completeness:** The contracted price includes all items of labor, materials, and other costs necessary to fully complete the manufacture and delivery of the TYGR Grader-Series GC-36-72 pursuant to these specifications.

Any part or detail which makes the TYGR Grader-Series GC-36-72 complete and ready for service shall not be omitted, even though such part is not mentioned in these specifications.

**Conformity:** All parts not specified shall be manufacturer's best quality and shall conform in materials, design, or workmanship to the best practice known in the TYGR Grader-Series GC-36-72 industry. All parts shall be new and in no case will used, reconditioned or obsolete parts be accepted. The parts on the TYGR Grader-Series GC-36-72 provided by the manufacturer should be interchangeable.

### **INSTRUCTIONS FOR COMPLETING TECHNICAL SPECIFICATION SHEET**

Please complete the checklist for technical specifications set forth below.

**Electronically enter responses directly into the text-enabled fields next to each specification, including actual dimensions when applicable.** Each Bidder must indicate whether it can meet the technical specifications by inserting an "X" next to each specification. The "X" will demonstrate that the Bidder's offering meets the technical specification. If a Bidder cannot meet a technical specification, then the Bidder must give an explanation for each exception and for equipment that is not available or that will be dealer installed. All explanations must be provided in detail on separate pages along with the justification as to why the alternative equipment or deliverables will be as good as the equipment or deliverables described in the detailed specifications for desired items. A copy of the vendor specification proposal must be provided. Following these instructions is essential for proper bid evaluation.

**If a Bidder fails to provide requested information or if information on a quote is found to be false or misleading, the quote will be rejected as unresponsive. The award will be made on a best value basis to the vendor that either meets or most closely meets the specifications, while taking price and delivery into consideration.**

It is understood that all specifications are minimum. Equivalent bid specifications may be considered. To have an "Equivalent Bid Specification" evaluated, the bidder must provide specifications and details for all specifications bid as "Equivalent Bid Specification." Bids missing this information may be rejected.

The following abbreviations must be used:

X	Standard or as specified
N/A	Not Available
DI	Dealer Installed
EQ	Equivalent Bid Specification

	1.0 MAIN BLAID	Abbreviation	Actual Dimension	Notes
1.1	<ul style="list-style-type: none"> <li>Width-44"</li> <li>Height-11"</li> <li>Push Distance-72"</li> <li>Tilt Angle-25</li> </ul>		44" 11" 72" 25°	
	2.0 FRONT SIDE BLADE	Abbreviation	Actual Dimension	Notes
2.1	<ul style="list-style-type: none"> <li>Width-39" with 24" Blade</li> <li>Height-12"</li> <li>Raised Height above Ground-6"</li> <li>Spring Tension Maintains Contact with Road Surface</li> </ul>		39" + 24" 12" 6" included	
	3.0 Hydraulics	Abbreviation	Actual Dimension	Notes
3.1	<ul style="list-style-type: none"> <li>Push Cylinder-2" rod x 3 Bore x 72 Stroke</li> <li>Low Flow Hydraulic Fluid Required (Regeneration System)-6-8GPM</li> <li>Comes with Hydraulic Diversion Valve Controlling Functions</li> <li>Hose Quick Connects to Skid Steer Hydraulics.</li> </ul>		included included 6-8gpm included included	



	4.0 Cleaning Rate	Abbreviation	Actual Dimension	Notes
4.1	<ul style="list-style-type: none"> <li>500-800ft/hour</li> </ul>		500-800	with operator experience
	5.0 Other-Blade	Abbreviation	Actual Dimension	Notes
5.1	<ul style="list-style-type: none"> <li>Cutting Edges included on all blades</li> <li>Guidance system gives operator precision location position</li> <li>Post Indicator locator positions blade side of post</li> <li>Extension locator visually indicates when push blade is on ditch side of post</li> <li>Safe to move push blade forwards to clean ditch side of post</li> </ul>		included included included included included	

	6.0 Weight	Abbreviation	Actual Dimension	Notes
6.1	<ul style="list-style-type: none"> <li>2,200</li> </ul>		2,200 #	
	7.0 Transport Width	Abbreviation	Actual Dimension	Notes
7.1	<ul style="list-style-type: none"> <li>8'-0"</li> </ul>		8'-0"	
	8.0 MANUALS & SOFTWARE	Abbreviation	Actual Dimension	Notes
8.0	There shall be two (2) operators manuals per unit.		included	
8.2	There shall be two (2) shop repair manuals or thumb drives.		included	
8.3	There shall be two (2) parts manuals or thumb drives.		included	

	9.0 PAINT	Abbreviation	Actual Dimension	Notes
9.1	The Grader shall be painted with the manufacturer's standard colors.		Yes	Black & Safety Yellow
	Standard color black and safety yellow			
9.2	All metal shall be free of rust and mill scale and prepared for primer and finish paint coat.		Yes	
	10.0 TRAINING	Abbreviation	Actual Dimension	Notes
10.1	Vendor may be asked to provide training at a later date, but within eight (8) weeks of delivery.		See note	TKI provides detailed training set up video for this purpose
	Training video provided			
10.2	Any and all training shall be performed by a factory certified trainer.			TKI prepared video for this purpose
	11.0 WARRANTY	Abbreviation	Actual Dimension	Notes
11.1	Manufacturer's standard warranty shall apply.		Yes	See Attached Warranty
	See Attached Warranty			
11.2	Terms and conditions of warranty shall be provided with bid proposal, (Warranty must be clearly defined and all components covered shall be clearly listed and identified).		Yes	See Attached
11.3	The manufacturer's warranty will start with MaineDOT in-service date.			Standard warranty is for 1 year after receipt of product
11.4	In-Service Date: Warranty on TYGR Grader-Series GC-36-72 (not placed in service immediately because of time lag due to installation of components, special equipment, seasonal usage, or other delays) shall be warranted from the date the units are actually placed in service. MaineDOT Fleet Services Augusta shall notify the vendor in writing of "in-service" date.			See Attached Warranty



	12.0 GENERAL	Abbreviation	Actual Dimension	Notes
12.1	All pinch points and danger areas shall be clearly marked.		Yes	Guards in place for moving parts
12.2	Equipment shall be fully inspected, serviced, fully assembled, and ready to operate upon delivery.		Yes	
12.3	Be it known that these specifications are a minimum and that the bid will be evaluated based on price, warranty, manufacturer's performance data, delivery schedule, parts availability, and other items deemed appropriate.		Yes	
12.4	All hardware installed shall not obstruct any lubrication points. In addition all components and systems shall be easily accessible to the operator.		Yes	
12.5	All hardware installed shall not obstruct or interfere with any TYGR Grader-Series GC-36-72 component or system		Yes	
12.6	All safety, warning, and instructional decals shall be properly displayed and appropriate for the TYGR Grader-Series GC-36-72 application.			
12.7	MaineDOT Fleet Services reserves the right to pre-inspect the equipment before delivery.		Yes	
12.8	Exceptions to specifications shall be listed on a separate paper and noted as exceptions and submitted with a bid proposal. If exceptions are not listed as such it shall be considered that the vendor will comply with all specifications as listed.			See Standard warranty provided & TYGR Specification
12.9	The equipment offered shall comply with all applicable Federal and State of Maine laws.			The TYGR was designed to be accepted in all 50 States & Canada

12.10	Upon delivery of unit or units all necessary paperwork such as Certificate of Origin, dealer's certificate, and invoices shall accompany unit(s).			All Tygers originate in Wyoming w/ Serial was fixed to each machine. TKI will e-mail Invoice when Tyger is shipped
12.11	All bid proposals shall include shipping and delivery to Maine Department of Transportation Fleet Services, 66 Industrial Dr. Augusta, ME. 04330		Yes	
<b>13.0 SERVICES REQUIREMENT</b>		<b>Abbreviation</b>	<b>Actual Dimension</b>	<b>Notes</b>
13.2	Vendors shall provide a list of bidder service center locations.			TKI Services All Tygers from our site in Wyoming.
13.3	Bidders shall supply a written explanation describing such things as the location of the facilities, the times the facilities will be available for use, qualifications of the staff at the facilities, and how the vendor will provide warranty and service at these service facilities.			TKI is open 8:00 AM to 4:00 PM Monday thru Friday. TKI Sold the first Tyger in 2016 & we have not had any replacement part orders to date.

**RIDER B: TERMS and CONDITIONS**

1. **DEFINITIONS.** The following definitions are applicable to these standard terms and conditions:
  - a. The term "Buyer" or "State" shall refer to the Government of the State of Maine or a person representing the Government of the State of Maine.
  - b. The term "Department" or "DAFS" shall refer to the State of Maine Department of Administrative and Financial Services.
  - c. The term "Bureau" or "BGS" shall refer to the State of Maine Bureau of General Services.
  - d. The term "OSPS" shall refer to the State of Maine Office of State Procurement Services.
  - e. The term "Provider" shall refer to the organization that is providing goods and/or services through the contract to which these standard terms and conditions have been attached and incorporated.
  - f. The term "Contract" shall refer to the contract document to which these standard terms and conditions apply, taking the format of a Buyer Purchase Order (BPO) or Master Agreement (MA) or other contractual document that is mutually agreed upon between the State and the Provider.
2. **WARRANTY.** The Provider warrants the following:
  - a. That all goods and services to be supplied by it under this Contract are fit and sufficient for the purpose intended, and
  - b. That all goods and services covered by this Contract will conform to the specifications, drawing samples, symbols or other description specified by OSPS, and
  - c. That such articles are merchantable, good quality, and free from defects whether patent or latent in material and workmanship, and
  - d. That all workmanship, materials, and articles to be provided are of the best grade and quality, and
  - e. That it has good and clear title to all articles to be supplied by it and the same are free and clear from all liens, encumbrances and security interest.

Neither the final certificate of payment nor any provision herein, nor partial nor entire use of the articles provided shall constitute an acceptance of work not done in accordance with this agreement or relieve the Provider liability in respect of any warranties or responsibility for faulty material or workmanship. The Provider shall remedy any defects in the work and pay any damage to other work resulting therefrom, which shall appear within one year from the date of final acceptance of the work provided hereunder. OSPS shall give written notice of observed defects with reasonable promptness.

3. **TAXES.** Provider agrees that, unless otherwise indicated in the order, the prices herein do not include federal, state, or local sales or use tax from which an exemption is available for purposes of this order. Provider agrees to accept and use tax exemption certificates when supplied by OSPS as applicable. In case it shall ever be determined that any tax included in the prices herein was not required to be paid by Provider, Provider agrees to notify OSPS and to make prompt application for the refund thereof, to take all proper steps to procure the same and when received to pay the same to OSPS.
4. **PACKING AND SHIPMENT.** Deliveries shall be made as specified without charge for boxing, carting, or storage, unless otherwise specified. Articles shall be suitably packed to secure lowest transportation cost and to conform to the requirements of common carriers and any applicable specifications. Order numbers and symbols must be plainly marked on all invoices, packages, bills

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of lading, and shipping orders. Bill of lading should accompany each invoice. Count or weight shall be final and conclusive on shipments not accompanied by packing lists.

5. **DELIVERY.** Delivery should be strictly in accordance with delivery schedule. If Provider's deliveries fail to meet such schedule, OSPS, without limiting its other remedies, may direct expedited routing and the difference between the expedited routing and the order routing costs shall be paid by the Provider. Articles fabricated beyond OSPS's releases are at Provider's risk. Provider shall not make material commitments or production arrangements in excess of the amount or in advance of the time necessary to meet delivery schedule, and, unless otherwise specified herein, no deliveries shall be made in advance of OSPSO's delivery schedule. Neither party shall be liable for excess costs of deliveries or defaults due to the causes beyond its control and without its fault or negligence, provided, however, that when the Provider has reason to believe that the deliveries will not be made as scheduled, written notice setting forth the cause of the anticipated delay will be given immediately to OSPS. If the Provider's delay or default is caused by the delay or default of a subcontractor, such delay or default shall be excusable only if it arose out of causes beyond the control of both Provider and subcontractor and without fault of negligence or either of them and the articles or services to be furnished were not obtainable from other sources in sufficient time to permit Provider to meet the required delivery schedule.
6. **FORCE MAJEURE.** The performance of an obligation by either party shall be excused in the event that performance of that obligation is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party.
7. **INSPECTION.** All articles and work will be subject to final inspection and approval after delivery, notwithstanding prior payment, it being expressly agreed that payment will not constitute final acceptance. OSPS, at its option, may either reject any article or work not in conformity with the requirements and terms of this order, or re-work the same at Provider's expense. OSPS may reject the entire shipment where it consists of a quantity of similar articles and sample inspection discloses that ten (10%) percent of the articles inspected are defective, unless Provider agrees to reimburse OSPS for the cost of a complete inspection of the articles included in such shipment. Rejected material may be returned at Provider's risk and expense at the full invoice price plus applicable incoming transportation charges, if any. No replacement of defective articles of work shall be made unless specified by OSPS.
8. **INVOICE.** The original and duplicate invoices covering each and every shipment made against this order showing Contract number, Vendor number, and other essential particulars, must be forwarded promptly to the ordering agency concerned by the Vendor to whom the order is issued. Delays in receiving invoice, and any errors or omissions on statements, will be considered just cause for withholding settlement without losing discount privileges. All accounts are to be carried in the name of the agency or institution receiving the goods, and not in the name of OSPS.
9. **MODIFICATIONS.** OSPS reserves the right to increase or decrease all or any portion of the work and the articles required by the bidding documents or this agreements, or to eliminate all or any portion of such work or articles or to change delivery date hereon without invalidating this Contract. All such modification shall be in writing. If any such modification are made, the Contract amount or amounts shall be adjusted accordingly. In no event shall Provider fail or refuse to continue the

performance of the work in providing of articles under this Agreement because of the inability of the parties to agree on an adjustment or adjustments.

**10. TERMINATION.** OSPS may terminate the whole or any part of this Agreement in any one of the following circumstances:

- a. The Provider fails to make delivery of articles, or to perform services within the time or times specified herein, or
- b. If Provider fails to deliver specified materials or services, or
- c. If Provider fails to perform any of the provisions of this Agreement, or
- d. If Provider so fails to make progress as to endanger the performance of this Agreement in accordance with its terms, or
- e. If Provider is adjudged bankrupt, or if it makes a general assignment for the benefit of its creditors or if a receiver is appointed on account of its insolvency, or
- f. Whenever for any reason the State shall determine that such termination is in the best interest of the State to do so.

In the event that OSPS terminates this Agreement in whole or in part, pursuant to this paragraph with the exception of (f), OSPS may procure (articles and services similar to those so terminated) upon such terms and in such manner as OSPS deems appropriate, and Provider shall be liable to OSPS for any excess cost of such similar articles or services.

**11. NON-APPROPRIATION.** Notwithstanding any other provision of this Contract, if the State does not receive sufficient funds to fund this Contract and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Contract.

**12. GOVERNMENTAL REQUIREMENTS.** The Provider warrants and represents that it will comply with all applicable governmental ordinances, laws and regulations.

**13. GOVERNING LAW.** This Contract shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Contract shall be brought in the State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.

**14. DISPUTES.** OSPS will decide any and all questions which may arise as to the quality and acceptability of articles provided and installation of such articles, and as to the manner of performance and rate of progress under this Contract. OSPS will decide all questions, which may arise as to the interpretation of the terms of this Agreement and the fulfillment of this Agreement on the part of the Provider.

**15. SUBLETTING, ASSIGNMENT OR TRANSFER.** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Contract or any portion thereof, or of its right, title or interest therein, without the written request and written approval from the Department. Such approval shall not in any case relieve the Provider of its responsibility for performance of work or liability under this Contract.

**16. STATE HELD HARMLESS.** The Provider shall indemnify and hold harmless the Department and its officers, agents, and employees from and against any and all third party claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for



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money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Provider, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Provider shall not be liable for claims arising out of the negligent acts or omissions of the Department, or for actions taken in reasonable reliance on written instructions of the Department.

**17. NON-COLLUSION.** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Contract, and that it has not paid, or agreed to pay, any company or person, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from, the award of this Contract.

And, the Provider has not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services, and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.

For breach or violation of this provision, the Department shall have the right to terminate this Contract without liability or, at its discretion, to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

**18. MATERIAL SAFETY:** All manufacturers, importers, suppliers, or distributors of hazardous chemicals doing business in this State must provide a copy of the current Material Safety Data Sheet (MSDS) for any hazardous chemical to their direct purchasers of that chemical.

**19. ORDER OF PRECEDENCE.** In the event of a conflict between the documents comprising this Agreement, the Order of Precedence shall be:

- a. Exceptions - If applicable
- b. General Terms & Conditions for Goods and/or Services under Buyer Purchase Orders and Master Agreements
- c. Scope of Work - If applicable
- d. Vender Agreement - Included at Department's Discretion
- e. Other - Included at Department's Discretion

**20. CYBERSECURITY AND PROHIBITED TECHNOLOGIES.** The Provider certifies to the best of Provider's knowledge and belief that the aforementioned organization, its principals and any subcontractors named in this Contract:

- a. is not a foreign adversary business entity, <https://www.maine.gov/oit/prohibited-technologies>, [Title 5 MRSA §2021 \(3\)](#); and
- b. is not on the list of prohibited companies or does not obtain or purchase any information or communications technology or services included on the list of prohibited information and communications technology and services <https://www.maine.gov/oit/prohibited-technologies>, [Title 5 MRSA §2030-B](#).

Contracts entered into by a state agency in violation of [Title 5 M.R.S. §2030-B](#) are void. A person who knowingly signs this contract, in violation of this section, commits a civil violation for which a



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fine may be adjudged in an amount that is twice the amount of this contract or \$250,000, whichever is greater, [Title 5 MRSA §2030-A](#).

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**RIDER C: EXCEPTIONS TO RIDER B**

Enter the exceptions here, if applicable. If not applicable, delete this page or enter "N/A" **and** make sure Rider C is not checked in the Table of Riders section.

## Appendix F

**STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
OFFICE OF STATE PROCUREMENT SERVICES**

**MaineDOT Certifications**

**RFQ # 17D 241107-111  
TYGR GRADER SERIES GC-36-72**

**1.0 NONCOLLUSION BIDDING CERTIFICATION**

By submission of this Bid, each Bidder and each person signing on behalf of any Bidder certifies, and in the case of a joint bid, each party certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief:

1. The prices in this Bid have been arrived at independently without collusion, consultation, communication or agreement, for the purpose of restricting competition as to any other matter relating to such prices with any other Bidder or with any other competitor;
2. Unless otherwise required by law, the prices which have been quoted in this Bid have not been knowingly disclosed by the Bidder and will not knowingly be disclosed by the Bidder prior to opening, directly or indirectly, to any other Bidder or to any competitor; and,
3. No attempt has been made or will be made by the Bidder to induce any other person, partnership or corporation to submit or not to submit a Bid for the purpose of restricting competition.

Dated **11/22/2024**

**Miriam Cohen**  
Printed name of Person Bidding

  
Authorized Signature

Title **Office Supervisor**

## 2.0 EQUIPMENT PERFORMANCE AND WARRANTY DATA

The information provided on this form will be used in determining operating costs of the equipment. Bidder must complete this form and submitted with bid. Bids received without this information will be considered non-responsive to the bid.

1. EQUIPMENT: Tygr Guardrail Grader

2. DESCRIBE THE PROCESS FOR THE SUBMISSION OF WARRANTY CLAIMS FOR REIMBURSEMENT OUTLINED AND SUBMITTED WITH THE BID. (written process to follow for reimbursement of warranty claims)

See Enclosed Warranty

3. EQUIPMENT INFORMATION:

YEAR: 2025 EQUIPMENT MAKE: Tygr

EQUIPMENT MODEL: GC - 44-72

4. MANUFACTURER'S RECOMMENDED PREVENTATIVE MAINTENANCE SCHEDULE MUST BE PROVIDED

Operating and Maintenance Manual Supplied

5. BASIC EQUIPMENT WARRANTY DESCRIPTION

See attached warranty

6. NAME/LOCATION OF REPAIR FACILITY(S) (BOTH AUTHORIZED WARRANTY, PARTS & SERVICE PER REQUESTED LOCATION). It is desired that at least one facility is located within 75-mile radius each region headquarters: Scarborough, Augusta, Dixfield, Bangor and Presque Isle.

### WARRANTY AND SERVICE FACILITIES

ADDRESS 1: PO Box 1045, Laramie, WY, 82073

ADDRESS 2:

ADDRESS 3:

ADDRESS 4:

ADDRESS 5:

CONTACT NAME: Miriam Cohen TELEPHONE: 307-742-5141

EQUIPMENT PARTS PROVIDER:

TK Industries Inc.

State of Maine RFQ# 17D 241107-111

Rev. 9/12/2024

ADDRESS: PO Box 1045, Laramie, WY, 82073

CONTACT NAME: Miriam Cohen TELEPHONE: 307-742-5146

Attach written explanation describing the locations of the facilities, the contact name and number at each facility, the times the facilities will be available for use, the qualifications of the staff at the facilities and how the vendor will provide warranty and service at these service facilities.

Bidder certifies that they have service facilities in Maine, staffed with trained service technicians and stocked with repair parts for the equipment which is bid.

This form must be reproduced and completed for any additional equipment warranty/facility information.

Dated

11/22/2024



Signature

Print Name

Miriam Cohen

Company Name

T K Industries Inc.

**3.0 SPECIFICATION COMPLIANCE**

The bidder hereby certifies that the equipment(s) being bid in response to this invitation meet or exceed these specifications and that where a deviation from the specifications exists, the bidder has obtained written approval of those exceptions prior to submitting this bid.

If a conflict exists between these specifications and Federal and/or State laws, the Federal and/or State laws shall prevail and the bidder must alert the purchaser to any such conflicts.

Dated

11/22/2024

Miriam Cohen

Printed name of Person Bidding



Authorized Signature

Title

Office Supervisor



## Appendix G

**STATE OF MAINE  
DEPARTMENT OF ADMINISTRATIVE AND FINANCIAL SERVICES  
OFFICE OF STATE PROCUREMENT SERVICES**

**MaineDOT TERMS and CONDITIONS**

**RFQ # 17D 241107-111  
TYGR GRADER SERIES GC-36-72**

**A. AGREEMENT**

The Vendor shall deliver the equipment ordered in accordance with this Agreement and governed by these Terms and Conditions.

**B. INDEPENDENT CAPACITY**

In providing the equipment under the Agreement, the Vendor shall act independently and not as an agent of the State of Maine.

**C. STATUS REPORTS**

Prior to the start of work, the Vendor shall furnish MaineDOT with a proposed progress schedule in MaineDOT's standard format. The Vendor will outline the various phases of work that will need to be completed in order to meet the schedule set forth by MaineDOT.

During equipment assembly, the successful bidder shall submit to MaineDOT's Fleet Representative, a Monthly Status Report of accomplishments from the preceding month. The progress report shall be used to keep team members and MaineDOT's Fleet Representative informed about project status and issues. Information will include:

- a. A written statement describing the work accomplished during the period and to date.
- b. An estimate of the percentage of work completed within the specified services.
- c. Any information needed from MaineDOT to complete the project and avoid delays.
- d. The successful bidder's action plan to remedy and address any non-conforming or unacceptable work submitted to the Department.
- e. Document anticipated problems and possible solutions.

These progress reports shall be submitted to MaineDOT on a **monthly basis**. Failure to submit could result in non-payment of the invoice, or be considered as a default, and shall be recorded in the Vendor's Performance Evaluation. If work is temporarily delayed, the Vendor may suspend

submittal of the monthly progress reports with written approval from MaineDOT. The Vendor shall be responsible for addressing any action that may be required to keep the project on schedule.

MaineDOT shall have a period of 15 business days after receipt of the submissions to complete the review and make any necessary comments. Following the review, the Vendor will make any revisions and corrections requested by MaineDOT.

#### **D. PAYMENT AND OTHER PROVISIONS**

MaineDOT anticipates paying the selected Vendor for goods and services received, on the basis of net 30 payment terms following acceptance of the equipment, the receipt of an acceptable title and required documents, and an accurate and acceptable invoice. An invoice will be considered accurate and acceptable if it contains the State of Maine Agreement number, correct pricing information relative to the Agreement, and provides any required supporting documents, as applicable, and any other specific and agreed-upon requirements listed within the Agreement.

MaineDOT reserves the right to pay for the equipment purchased by any of several available means, which include but may not be limited to check, EFT, and/or procurement card. Vendors are advised that state statute precludes sellers from imposing a surcharge on credit or debit card purchases (text follows):

“9-A MRSA §8-303 (2): A seller in a sales transaction may not impose a surcharge on a cardholder who elects to use a credit card or debit card in lieu of payment by cash, check or similar means.”

#### **E. WARRANTY**

For a period of one (1) year following equipment delivery and acceptance (the “Warranty period”), Vendor unconditionally warrants and guarantees that the equipment shall be free from defects in parts and workmanship. If MaineDOT discovers any defects during the Warranty period, the Vendor’s obligation will be to repair or replace the equipment or refund the purchase price, at MaineDOT’s sole option subject to the following requirements as applicable:

- Replacement will be with new equipment matching the specifications within this Agreement.
- Reimbursement will be for the total purchase price of the equipment including the cost of returning the equipment.
- All Repairs including the cost of transporting the equipment will be borne by the Vendor. All repairs will be warranted free from defects in parts and workmanship for a one-year period following the repair.

The Vendor hereby assigns to MaineDOT the right to enforce all manufacturer’s warranties or guarantees on the equipment.

The Vendor agrees that the warranty obligations provided by this Agreement shall be reported as an outstanding obligation in the event of bankruptcy, dissolution, or the sale, merger, or cessations of operations of the Vendor.

In the event of a breach of Vendor’s warranty obligations, MaineDOT shall notify Vendor in writing of the breach and grant Vendor 30 days to cure the breach. Should Vendor fail to cure the



breach, MaineDOT may pursue whatever remedies may be available.

#### **F. DAMAGES**

Time is of the essence in the delivery of the equipment specified herein, and in event of delay(s) in the delivery of the equipment beyond the date set forth in the Agreement, or beyond authorized extensions thereof MaineDOT may impose liquidated damages. Because it is difficult to determine the actual amount of the damage by reason of such delay it is therefore agreed that the Vendor will pay the sum of one hundred dollars (\$100.00) per unit for each calendar day(s) delay in delivery as liquidated damages and not as a penalty.

These damages shall be deducted from any monies due, or which may thereafter become due to the Vendor or may be recovered by through any lawful means.

#### **G. SET-OFF RIGHTS**

MaineDOT shall have all of its common law, equitable and statutory rights of set-off.

#### **H. FORCE MAJEURE**

Either party may be excused from performance under this Agreement to the extent the failure to perform is caused by acts of God or of the public enemy, fire, floods, epidemics, quarantine, restrictions, strikes, labor disputes, and freight embargos, or other causes beyond the party's reasonable control. In the event of such event of force majeure, the affected party shall provide the other party written notice of the cause of delay within fifteen (15) days from the beginning of any such delay. The time of performance shall be excused to extent of the duration of any such event of force majeure, or such period of time as may be mutually agreed upon by the parties.

#### **I. INDEMNIFICATION**

The Vendor shall indemnify and hold harmless MaineDOT and its officers, agents, and employees from and against any and all claims, liabilities, and costs, including reasonable attorney fees, for any or all injuries to persons or property or claims for money damages, including claims for violation of intellectual property rights, arising from the negligent acts or omissions of the Vendor, its employees or agents, officers or Subcontractors in the performance of work under this Agreement; provided, however, the Vendor shall not be liable for claims arising out of the negligent acts or omissions of MaineDOT, or for actions taken in reasonable reliance on written instructions of MaineDOT.

This indemnification provision shall survive any termination or expiration of the Agreement.

#### **J. DEFAULT, TERMINATION**

- a. MaineDOT reserves the right to terminate this Agreement or any part hereof, for its sole convenience. Thirty (30) days advance written notice shall be provided in the case of a termination for convenience. In the event of such termination, Vendor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Vendor shall be paid for all work on a percentage completed



basis, as mutually agreed upon by the parties, up to the date of termination under this Paragraph 14.A.

- b. MaineDOT shall have the right to terminate this Agreement in the event of a material breach or default by Vendor of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by Vendor of written notice of such breach from MaineDOT. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then Vendor shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided Vendor has exercised reasonable commercial efforts and taken appropriate action to begin cure of the breach or default within the initial thirty (30) day cure period.
- c. MaineDOT shall have the right to terminate this Agreement immediately upon written notice to Vendor in the event (i) Vendor, or any director, officer or employee of Vendor assigned to this Project is convicted of a criminal offense directly related to information technology services; or (ii) proceedings in bankruptcy are commenced against Vendor or if a receiver is appointed and such case or proceeding shall continue undismissed, or unstayed and in effect, for a period of one hundred twenty (120) days. Notwithstanding the foregoing, if a conviction of an employee assigned to this Project, officer or director, relates to individual and/or personal actions of such employee, officer or director and not the policy or directive of Vendor and, upon such conviction, Vendor shall terminate or otherwise remove such employee, officer or director and take such other steps to reasonably ensure the propriety of Vendor's delivery of information technology services, then MaineDOT shall not have a right to terminate this Agreement pursuant to the foregoing clause (i) of this Section 14 (C).
- d. Vendor shall have the right to terminate this Agreement in the event of a material breach or default by MaineDOT of its obligations hereunder that is not cured within thirty (30) days from the date of receipt by MaineDOT of written notice of such breach from Vendor. If the breach or default, by its nature, cannot be cured within such thirty (30) day period, then MaineDOT shall have such additional time (not to exceed thirty (30) additional days) as may be necessary to cure the breach or default, provided MaineDOT has exercised reasonable commercial efforts and taken appropriate actions to begin cure of the breach or default within the initial thirty (30) day cure period.
- e. Vendor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

#### **K. DELIVERY AND ACCEPTANCE**

Time is of the essence in the delivery of the equipment. The Vendor shall execute the work continuously and diligently. Delivery of the units shall occur in accordance with the terms and conditions outlined in the resulting Agreement.

- i. Production of the units shall be conducted as a continuous production with no breaks or inserts of other orders or types of equipment.
- ii. Delivery shall be restricted to Monday through Friday, between the hours of 8 AM and 4 PM.
- iii. The Vendor will contact MaineDOT Fleet Services 24 hrs. prior to delivery with an estimated time of arrival.
- iv. Units furnished under this Agreement shall be delivered in first class condition, complete and ready for operation, and the Vendor shall assume all costs, responsibilities, and risk of loss related to damage that may have occurred in the delivery of the units.
- v. When units are delivered, certificates or releases signed by representatives of MaineDOT Fleet Services are understood to be a simple acknowledgment of receipt of the units only, and will NOT constitute an acceptance of the condition of the units or their conformance with the terms and conditions of the Agreement specifications.
- vi. Upon delivery, MaineDOT may conduct such tests as may be required to determine to its own satisfaction that the units appear to be in conformance with the terms, conditions, and requirements of the Agreement specifications.

Acceptance shall occur following final inspection by authorized employees of MaineDOT Fleet Service, receipt of the titles and all requested documentation. The Vendor will be notified, in writing, of acceptance/non-acceptance within fifteen calendar (15) days of delivery to the location specified in this Agreement.

#### **L. RIGHT TO SUSPEND WORK**

MaineDOT has the right to suspend any or all work at any time for any reason as it deems necessary. Consultant may receive payment for the portion of services completed through the date of suspension.

#### **M. COPYRIGHT AND LICENSES - PATENTS AND COPYRIGHTS**

Data and publication rights to any documents, produced under the terms of Agreement are the property of MaineDOT. The Vendor shall not copyright the material produced under the terms of the Agreement without written approval of MaineDOT, except to the extent necessary to protect its rights pursuant to the following paragraph.



The Parties to this Agreement mutually agree that, if patentable discoveries, intellectual property and software, or inventions should result from work described therein, all rights accruing from such discoveries or inventions shall be the sole property of MaineDOT.

## **N. CLAIMS AND DISPUTES**

### **General**

To preserve any claim arising out of the Agreement, the Parties shall comply with and exhaust all provisions of this Section. Unless otherwise agreed to in writing, the Vendor shall continue to perform its services during any dispute resolution process. If the Vendor continues to perform, MaineDOT shall continue to make payments in accordance with the Agreement of amounts not in dispute.

### **Negotiation with MaineDOT's Fleet Representative**

The Vendor shall promptly notify MaineDOT's Fleet Representative, or their designee, in writing, of disputes that could significantly affect scope, schedule or compensation. After such notice, the Vendor and MaineDOT's Fleet Representative shall promptly negotiate in good faith to resolve the dispute. MaineDOT's Fleet Representative will promptly issue a decision.

### **Review by Director**

If the Vendor desires a review of MaineDOT's Fleet Representative's decision, then the Vendor shall promptly request in writing that MaineDOT's Director of the applicable Bureau or Office review the Fleet Representative's decision. The Director or its designee(s) shall promptly notify the Vendor in writing of the result of the review.

### **Dispute Resolution**

If the dispute remains unresolved after negotiation and review as set forth above, the Parties may proceed to mediation by selecting a mediator acceptable to both.

If the Parties are unable to resolve the dispute through mediation, either party may seek judicial review through a civil action commenced in the Superior Court of Maine, Kennebec County.

## **O. CONTROLLING LAWS**

The Agreement referred to in these Terms and Conditions is governed by the applicable laws of the Federal Government and the State of Maine.

### **Laws to Be Observed**

The Vendor shall comply with all applicable Federal, State and local laws, rules, regulations, orders, and ordinances affecting the work including, without limitation all environmental, wage, labor, equal opportunity, safety, patent, copyright, or trademark laws. The Vendor shall indemnify MaineDOT and hold MaineDOT harmless against any and all claims or liabilities arising from or based upon the violation or alleged violation of any such Law caused directly or indirectly by or through the Vendor.

**P. ENTIRE AGREEMENT/BINDING EFFECT/MODIFICATION/ASSIGNMENT**

This Agreement sets forth the entire agreement of the parties with regard to the subject herein. This Agreement may not be modified except by a written amendment executed by both parties.

Neither MaineDOT nor the Vendor may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in the Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written Consent To Assignment, no assignment shall release or discharge the assignor from any duty or responsibility under the Agreement.

**Q. SEVERABILITY**

The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

**R. NON-WAIVER**

If MaineDOT fails or refuses to enforce any provision in the Agreement that shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.

Name of Company: T K Industries Inc.

Address: PO Box 1043, Laramie, WY, 82073

Signature: 

Date: 11/22/2024


**RIDER G: DEBARMENT, PERFORMANCE, AND NON-COLLUSION CERTIFICATION**

*By signing this document, I certify to the best of my knowledge and belief that the aforementioned organization, its principals, and any subcontractors named in this proposal:*

- a. Are not presently debarred, suspended, proposed for debarment, and declared ineligible or voluntarily excluded from bidding or working on contracts issued by any governmental agency.*
- b. Have not within three years of submitting the proposal for this contract been convicted of or had a civil judgment rendered against them for:*
  - i. fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a federal, state or local government transaction or contract.*
  - ii. violating Federal or State antitrust statutes or committing embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;*
  - iii. are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or Local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and*
  - iv. have not within a three (3) year period preceding this proposal had one or more federal, state or local government transactions terminated for cause or default.*
- c. Have not entered into a prior understanding, agreement, or connection with any corporation, firm, or person submitting a response for the same materials, supplies, equipment, or services and this proposal is in all respects fair and without collusion or fraud. The above-mentioned entities understand and agree that collusive bidding is a violation of state and federal law and can result in fines, prison sentences, and civil damage awards.*

- Failure to provide this certification may result in the disqualification of the Bidder's proposal, at the discretion of the Department.**

*To the best of my knowledge all information provided in the enclosed proposal, both programmatic and financial, is complete and accurate at the time of submission.*

Name: Miriam Cohen	Title: Office Supervisor
Authorized Signature:  <small>Signed by: 5D6B12F6FF034A0...</small>	Date: 1/7/2025