

Attachment 11

CLAIM OF BUSINESS CONFIDENTIALITY

Offeror's Claims of Business Confidentiality. (Check one of the below.)

- ☐ Offeror is not claiming any information within Offeror's proposal as confidential, proprietary, or protected. (Check box and skip to **Signature** section below.)
- ☐ Offeror claims the information set forth in the table below as confidential, proprietary, or protected and **will submit with Offeror's proposal a redacted copy of Offeror's proposal**, which must be clearly marked as such. Offeror understands, acknowledges, and agrees to comply with the following:
- Each of the following fields **must** be completed for each claim asserted by Offeror:
 - **Proposal Section Reference:** The page, section, or paragraph in Offeror's proposal containing the information claimed to be confidential, proprietary, or protected.
 - **Confidential Information:** A description of the information claimed to be confidential, proprietary, or protected.
 - **Basis for Claim:** The basis for the Offeror's claim must be that the information constitutes a trade secret or is otherwise exempt from disclosure under Ark. Code Ann. § 25-19-105.
 - An Offeror requesting confidential treatment of specific information shall: (1) conspicuously mark the outside of its Bid as containing confidential information; (2) mark each page upon which the Offeror believes confidential information appears **and CLEARLY IDENTIFY EACH ITEM for which confidential treatment is requested; MARKING A PAGE IN THE PAGE MARGIN IS NOT SUFFICIENT IDENTIFICATION**; and (3) submit a "Public Copy" from which the confidential information has been excised.
 - A confidentiality request will not be considered valid unless, for each item claimed, the Offeror: (1) identifies the specific exemption under the Arkansas Freedom of Information Act, Ark. Code Ann. § 25-19-105, or other applicable law that supports treatment of the information as confidential; (2) justifies why the information should be maintained in confidence (e.g., trade secret as defined in Ark. Code Ann. § 4-75-601 et seq.); (3) explains why disclosure of the information would cause competitive harm or otherwise not serve the public interest; and (4) provides the name, address, telephone number, and e-mail of the person authorized to respond to inquiries concerning the confidentiality request.
 - **The Public Copy from which confidential information has been excised is in addition to the confidential copy.** The confidential information must be excised in such a way as to allow the public to determine the general nature of the information removed and to retain as much of the Bid as possible.
 - Failure to request that information be treated as confidential as specified herein shall relieve the agency and personnel from any responsibility for maintaining the information in confidence. Offerors may not request confidential treatment with respect to pricing information. An Offeror's request for confidentiality that does not comply with this form or an Offeror's request for confidentiality on information or material that cannot be held in confidence as set forth herein shall be grounds for rejecting the Bid as non-responsive. Requests to maintain an entire Bid as confidential will also be rejected as non-responsive.
 - If Lead Entity receives a request for information that Offeror has marked as confidential and if a judicial or administrative proceeding is initiated to compel the release of such information, Offeror shall, at its sole expense, appear in such action and defend its request for confidentiality. If Offeror fails to do so, Lead Entity may release the information or material with or without providing advance notice to Offeror and with or without affording Offeror the



Request for Proposals for
Vehicle Upfitting Sales and Installation

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opportunity to obtain an order restraining its release from a court possessing competent jurisdiction. Additionally, if Offeror fails to comply with the request process set forth herein, if Offeror's request for confidentiality is unreasonable, or if Offeror rescinds its request for confidential treatment, Lead Entity may release such information or material with or without providing advance notice to Offeror and with or without affording Offeror the opportunity to obtain an order restraining its release from a court possessing competent jurisdiction.

- **Explanation:** Explanation of how the information claimed to be confidential meets the definition of one of the bases above.
- **Offeror may not mark pricing or Offeror's entire proposal as confidential, proprietary, or protected.**

Proposal Section Reference	Confidential Information	Basis for Claim	Explanation

[Add additional rows as needed.]

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Signature

By signing below, the undersigned certifies under penalty of perjury that the representations made and the information provided herein are true and correct and may be relied upon by the Lead Entity for purposes of determining the validity of Offeror's claim(s). Offeror understands that submission of a Claim of Business Confidentiality does not guarantee that information claimed by Offeror as confidential, proprietary, or protected will not be subject to disclosure in accordance with applicable public information laws, rules, and policies. Offeror further agrees that if Offeror fails to submit a redacted copy of Offeror's proposal, or fails to claim information as confidential, proprietary, or protected in compliance with this RFP, Offeror releases the Lead Entity, RFXPremier, RFXPremier members, and entities represented on the Multistate Sourcing Team from any obligation to keep the information confidential and waives all claims of liability arising from disclosure of the information.

OFFEROR:

Signature

Date

Printed Name

Title

Email Address

Phone Number