

BLANKET PURCHASE ORDER

STATE OF MARYLAND

***** STATE OF MARYLAND *****

BPO NO: 001B1600366

PRINT DATE: 02/25/21

PAGE: 01

SHIP TO:

AS SPECIFIED ON INDIVIDUAL ORDERS

VENDOR ID:

PULSAR ECO PRODUCTS LLC
2570 SUPERIOR AVE
SUITE 505
CLEVELAND, OH 44114
(330)475-6362

REFER QUESTIONS TO:

DARYL MOORE
(410)767-4945
DARYL.MOORE@MARYLAND.GOV

ITB:

EXPR DATE: 01/21/22
POST DATE: 02/22/21

DISCOUNT TERMS: .
CONTRACT AMOUNT:

NET 30 DAY
.00

TERMS:

ARTICLES HEREIN ARE EXEMPT FROM MARYLAND SALES AND USE TAXES BY EXEMPTION CERTIFICATE NUMBER 3000256-3 AND FROM FEDERAL EXCISE TAXES BY EXEMPTION NUMBER 52-73-0358K. IT IS THE VENDOR'S RESPONSIBILITY TO ADVISE COMMON CARRIERS THAT AGENCIES OF THE STATE OF MARYLAND ARE EXEMPT FROM TRANSPORTATION TAX.

STATEWIDE CONTRACT

FOR (PPE)

PERSONAL PROTECTION EQUIPMENT AND SUPPLIES

SMALL BUSINESS RESERVE (SBR)

REFER TO LINE ITEMS FOR PRIMARY, SECONDARY OR TERTIARY CONDITIONS

MODIFICATION #1: AWARDED LINE ITEMS UPDATED AT THE "PPE PRODUCT"
SECTION.

THE CONTRACTOR HAS BEEN CERTIFIED AS A SMALL BUSINESS (SBR) IN
MARYLAND. ALL ORDERS USING THIS CONTRACT MAY BE DESIGNATED AS SUCH.

TERM: THIS IS A ONE YEAR CONTRACT BEGINNING ON 01/13/2021 THROUGH
01/12/2022 WITH TWO (2) ONE (1) YEAR RENEWAL OPTIONS.
BPM019867-INDEFINITE DELIVERY, INDEFINITE QUANTITY (IDIQ)

VENDOR: PULSAR ECO PRODUCTS, LLC
VENDOR CONTACT: MIKE LUDWIG
VENDOR NUMBER: 216-861-8800
VENDOR EMAIL: MIKE@PULSARPAPER.COM

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AGENCY CONTACT: DARYL MOORE
AGENCY NUMBER: 410-767-4945
AGENCY EMAIL: DARYL.MOORE@MARYLAND.GOV

THE DEPARTMENT OF GENERAL SERVICES' "TERMS AND CONDITIONS FOR COMMODITY CONTRACTS OVER \$50,000" AND ALL SPECIFICATIONS, TERMS AND CONDITIONS OF SOLICITATION #BPM020474 ARE INCORPORATED HEREIN BY REFERENCE.

CONTRACT SCOPE: THIS IS A STATEWIDE CONTRACT FOR SUCCESSFUL SUPPLIERS TO FURNISH AND DELIVER THE SPECIFIED PPE ITEMS REQUESTED BY AGENCIES, POLITICAL SUBDIVISIONS OF THE STATE ON AN AS-NEEDED BASIS.

SUMMARY STATEMENT:

THE MARYLAND DEPARTMENT OF GENERAL SERVICES (DGS) OR THE "DEPARTMENT") IS ISSUING THIS INVITATION FOR BIDS (IFB) IN ORDER TO PROCURE PERSONAL PROTECTIVE EQUIPMENT (PPE) DEFINED IN THIS SECTION 2, AS SPECIFIED IN THIS IFB, FROM A CONTRACT BETWEEN THE SUCCESSFUL BIDDER(S) AND THE MARYLAND DEPARTMENT OF GENERAL SERVICES. THE SUCCESSFUL SUPPLIERS WILL FURNISH AND DELIVER THE SPECIFIED PPE ITEMS REQUESTED BY AGENCIES AND POLITICAL SUBDIVISIONS OF THE STATE ON AN AS-NEEDED BASIS. THIS IS A FIRM FIXED PRICE REQUIREMENTS CONTRACT WHERE THERE WILL BE NO MINIMUM OR MAXIMUM ORDER AMOUNT FOR THE TERM OF THE CONTRACT.

ALL CONTRACTS WILL BEGIN ON THE DATE OF CONTRACT AWARD WHICH WILL SERVE AS NOTICE TO PROCEED. ANY RENEWALS SOLICITED WITH THIS CONTRACT OR ANY PART OF THE CONTRACT MAY BE RENEWED SOLELY AT THE DISCRETION OF THE OFFICE OF STATE PROCUREMENT. THE STATE HAS THE UNILATERAL RIGHT TO EXERCISE ANY OPTION(S). IT IS THE STATE'S INTENTION TO OBTAIN GOODS AND SERVICES, AS SPECIFIED IN THIS IFB, FROM A CONTRACT BETWEEN SELECTED BIDDERS AND THE STATE.

THE MARYLAND DEPARTMENT OF GENERAL SERVICES INTENDS TO MAKE MULTIPLE AWARDS FOR EACH LINE ITEM TO ENSURE CONTINUITY OF SUPPLY IN CHALLENGING MARKETS. IT IS ESTIMATED THAT UP TO THREE (3) AWARDS MAY BE MADE FOR EACH LINE ITEM UNDER THIS IFB. SEE IFB SECTION 4.9 AWARD BASIS FOR MORE CONTRACT AWARD INFORMATION.

A BIDDER, EITHER DIRECTLY OR THROUGH ITS SUBCONTRACTOR(S), MUST BE ABLE TO PROVIDE ALL GOODS AND MEET ALL THE REQUIREMENTS REQUESTED IN THIS SOLICITATION AND THE SUCCESSFUL BIDDER (THE CONTRACTOR) SHALL REMAIN RESPONSIBLE FOR CONTRACT PERFORMANCE REGARDLESS OF

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SUBCONTRACTOR PARTICIPATION IN THE WORK. IT IS ANTICIPATED THAT CONTRACT AWARDS WILL BE MADE FOR A PRIMARY SUPPLIER, A SECONDARY SUPPLIER, AND A TERTIARY SUPPLIER. THE PRIMARY SUPPLIER WILL BE ASKED TO PROVIDE THE REQUESTED ORDER QUANTITIES FIRST. IF THE PRIMARY SUPPLIER CANNOT FULFILL THE ORDER, OR CAN GUARANTEE ONLY A PORTION OF THE ORDER, THE SECONDARY SUPPLIER WILL BE CONTACTED TO FULFILL THE ORDER IN TOTAL, OR THE REMAINING BALANCE ACCORDINGLY. IF THE PRIMARY AND SECONDARY SUPPLIERS CANNOT FULFILL THE ORDER OR CAN ONLY PARTIALLY FULFILL THE ORDER, THE TERTIARY SUPPLIER WILL BE ASKED TO FULFILL THE ORDER OR BALANCE OF THE ORDER.

MARYLAND STATE AND LOCAL ENTITIES AS DEFINED IN FINANCE AND PROCUREMENT §13-110(A) AND NONPROFIT ENTITIES WITHIN THE STATE OF MARYLAND MAY PURCHASE FROM THE CONTRACTOR GOODS OR SERVICES COVERED BY THE CONTRACT AT THE SAME PRICES CHARGEABLE TO THE STATE. ALL SUCH PURCHASES BY NON-EXECUTIVE BRANCH ENTITIES, NON-STATE GOVERNMENTS, GOVERNMENT AGENCIES OR NONPROFIT ENTITIES:

SHALL CONSTITUTE CONTRACTS BETWEEN THE CONTRACTOR AND THAT ENTITY; SHALL NOT CONSTITUTE PURCHASES BY THE STATE OR STATE AGENCIES UNDER THE CONTRACT; SHALL NOT BE BINDING OR ENFORCEABLE AGAINST THE STATE; AND MAY BE SUBJECT TO OTHER TERMS AND CONDITIONS AGREED TO BY THE CONTRACTOR OR AND THE PURCHASER.

ALL CONTRACT PRICES, TERMS, AND CONDITIONS MUST BE PROVIDED TO ANY MARYLAND LOCAL GOVERNMENT OR NONPROFIT ENTITY REQUESTING SERVICES UNDER THE CONTRACT. THE CONTRACTOR BEARS THE RISK OF DETERMINING WHETHER OR NOT A GOVERNMENT, AGENCY OR ORGANIZATION WITH WHICH THE CONTRACTOR IS DEALING IS A STATE ENTITY.

BY SUBMISSION OF BID, THE BIDDER ACKNOWLEDGES AND AGREES THAT THE ARRANGEMENT CREATED BY THE CONTRACT/BPO TO THE CONTRACTOR IS NON-EXCLUSIVE AND THE DEPARTMENT AND ALL STATE AGENCIES RETAIN THE RIGHT TO PURCHASE FROM OTHER PROVIDERS.

NOTHING CONTAINED HEREIN SHALL LIMIT NOR RESTRICT THE DEPARTMENT FROM PURCHASING SIMILAR ITEMS FROM ANOTHER PROVIDER.

RESPONSIBILITIES AND TASKS:

UPON AWARD, THE CONTRACTOR(S) SHALL:

A) BE RESPONSIBLE FOR MAINTAINING A CONTINUOUS SUPPLY OF THE AWARDED PRODUCTS FOR THE TERM OF THE CONTRACT,

B) BE RESPONSIBLE FOR PROVIDING THE GOODS SPECIFIED ON THE PRICE SHEET (ATTACHMENT B) ON AN AS-NEEDED BASIS UPON RECEIPT OF AN AUTHORIZED

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- C) HAVE THE ABILITY TO PROCESS CREDIT CARD ORDERS;
- D) BE ABLE TO PROVIDE TO THE REQUESTOR SAFETY DATA SHEETS (SDS) FOR ALL PRODUCT ORDERS:
- E) BE RESPONSIBLE FOR ALL SHIPPING COSTS ASSOCIATED WITH THE DELIVERY OF REQUESTED ITEMS UNLESS THE ORDER IS PLACED FOR PRODUCT AT THE PRICES QUOTED NOT INCLUDING DELIVERY; AND
- F) BE RESPONSIBLE FOR ENSURING THAT THE REQUESTED ITEMS SHIPPED ARE TO THE SPECIFICATIONS OUTLINED IN ATTACHMENT B.

COMPLETE ORDERS MUST BE DELIVERED WITHIN THE TIME FRAME LISTED ON EACH PURCHASE ORDER AT THE FIRM FIXED PRICE STATED ON THE CONTRACT. NO MULTI-STAGE SHIPMENTS WITHOUT PRE-AUTHORIZATION FROM THE ORDERING ENTITY.

UPON AWARD OF A CONTRACT, THE CONTRACTOR SHALL IMMEDIATELY BEGIN ACCEPTING ALL ORDERS ISSUED BY AUTHORIZED USING ENTITIES AS NEEDED.

INVOICING:

A) THE CONTRACTOR SHALL SEND THE ORIGINAL OF EACH INVOICE TO THE ORDERING ENTITY AS LISTED ON EACH PURCHASE ORDER.

ALL INVOICES FOR SERVICES SHALL BE VERIFIED BY THE CONTRACTOR AS ACCURATE AT THE TIME OF SUBMISSION.

AN INVOICE NOT SATISFYING THE REQUIREMENTS OF A PROPER INVOICE (AS DEFINED IN COMAR 21.06.09) CANNOT BE PROCESSED FOR PAYMENT. TO BE CONSIDERED A PROPER INVOICE, INVOICES MUST INCLUDE THE FOLLOWING INFORMATION WITHOUT ERROR:

- 1) CONTRACTOR NAME AND ADDRESS;
- 2) VENDOR MUST INCLUDE THE 9-DIGIT ZIP CODE OF THE COMPANY'S ADDRESS ON ALL INVOICES. FAILURE TO DO SO MAY RESULT IN DELAY OF PAYMENT.
- 3) REMITTANCE;
- 4) FEDERAL TAXPAYER IDENTIFICATION (FEIN) NUMBER, SOCIAL SECURITY NUMBER, AS APPROPRIATE;
- 5) INVOICE PERIOD (I.E. TIME PERIOD DURING WHICH SERVICES COVERED BY

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INVOICE WERE PERFORMED);

6) INVOICE NUMBER;

7) STATE ASSIGNED CONTRACT NUMBER;

8) STATE ASSIGNED (BLANKET PURCHASE ORDER NUMBER(S);

9) GOODS OR SERVICES PROVIDED;

10) AMOUNT DUE; AND

11) ANY ADDITIONAL DOCUMENTATION REQUIRED BY REGULATION OR THE CONTRACT.

THE DEPARTMENT RESERVES THE RIGHT TO REDUCE OR WITHHOLD CONTRACT PAYMENT IN THE EVENT THE CONTRACTOR DOES NOT PROVIDE THE DEPARTMENT WITH ALL REQUIRED DELIVERABLES WITHIN THE TIME FRAME SPECIFIED IN THE CONTRACT OR OTHERWISE BREACHES THE TERMS AND CONDITIONS OF THE CONTRACT UNTIL SUCH TIME AS THE CONTRACTOR BRINGS ITSELF INTO FULL COMPLIANCE WITH THE CONTRACT.

ANY ACTION ON THE PART OF THE DEPARTMENT, OR DISPUTE OF ACTION BY THE CONTRACTOR, SHALL BE IN ACCORDANCE WITH THE PROVISIONS OF THE MD. CODE ANN., STATE FINANCE AND PROCUREMENT ARTICLE §§ 15-215 THROUGH 15-223 AND WITH COMAR 21.10.04

THE STATE IS GENERALLY EXEMPT FROM FEDERAL EXCISE TAXES, MARYLAND SALES AND USE TAXES, DISTRICT OF COLUMBIA SALES TAXES AND TRANSPORTATION TAXES. THE CONTRACTOR, HOWEVER, IS NOT EXEMPT FROM SUCH SALES AND USE TAXES AND MAY BE LIABLE THE SAME.

INVOICES FOR FINAL PAYMENT SHALL BE CLEARLY MARKED AS FINAL AND SUBMITTED WHEN ALL WORK REQUIREMENTS HAVE BEEN COMPLETED AND NO FURTHER CHARGES ARE TO BE INCURRED UNDER THE CONTRACT. IN NO EVENT SHALL ANY INVOICE BE SUBMITTED LATER THAN 60 CALENDAR DAYS FROM THE CONTRACT TERMINATION DATE.

DELIVERABLE INVOICING:

PAYMENT FOR DELIVERABLES WILL ONLY BE MADE UPON COMPLETION AND ACCEPTANCE OF THE DELIVERABLES AS DEFINED IN SECTION 2 (IFB).

FOR THE PURPOSES OF THE CONTRACT AN AMOUNT WILL NOT BE DEEMED DUE AND PAYABLE IF:

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- A) THE AMOUNT INVOICED IS INCONSISTENT WITH THE CONTRACT;
- B) THE PROPER INVOICE HAS NOT BEEN RECEIVED BY THE PARTY OR OFFICE SPECIFIED IN THE CONTRACT;
- C) THE INVOICE OR PERFORMANCE IS IN DISPUTE OR THE CONTRACTOR HAS FAILED TO OTHERWISE COMPLY WITH THE PROVISIONS OF THE CONTRACT;
- D) THE ITEM OR SERVICES HAVE NOT BEEN ACCEPTED;
- E) THE QUANTITY OF ITEMS DELIVERED IS LESS THAN THE QUANTITY ORDERED;
- F) THE ITEMS OR SERVICES DO NOT MEET THE QUALITY REQUIREMENTS OF THE CONTRACT; OR
- G) THE CONTRACTOR HAS NOT SUBMITTED SATISFACTORY DOCUMENTATION OR OTHER EVIDENCE REASONABLY REQUIRED BY THE PROCUREMENT OFFICER OR BY THE CONTRACT CONCERNING PERFORMANCE UNDER THE CONTRACT AND COMPLIANCE WITH ITS PROVISIONS.

TRAVEL REIMBURSEMENT:

TRAVEL WILL NOT BE REIMBURSED UNDER THIS IFB.

NO-COST EXTENSION:

IN ACCORDANCE WITH BPW ADVISORY 1995-1 ITEM 7.B, IN THE EVENT THERE ARE UNSPENT FUNDS REMAINING ON THE CONTRACT, PRIOR TO THE CONTRACT'S EXPIRATION DATE THE PROCUREMENT OFFICER MAY MODIFY THE CONTRACT TO EXTEND THE CONTRACT BEYOND ITS EXPIRATION DATE FOR A PERIOD UP TO, BUT NOT EXCEEDING, ONE-THIRD OF THE BASE TERM OF THE CONTRACT (E.G., EIGHT-MONTH EXTENSION ON A TWO-YEAR CONTRACT) FOR THE PERFORMANCE OF WORK WITHIN THE CONTRACT'S SCOPE OF WORK. NOTWITHSTANDING ANYTHING TO THE CONTRARY, NO FUNDS MAY BE ADDED TO THE CONTRACT IN CONNECTION WITH ANY SUCH EXTENSION.

USAGE REPORT:

A REPORT SHALL BE FURNISHED BY THE SUCCESSFUL CONTRACTOR EVERY HUNDRED -TWENTY (120) DAYS DETAILING THE PURCHASE OF ALL ITEMS ON THE CONTRACT. THE REPORT SHALL BE SUBMITTED ELECTRONICALLY IN EXCEL FORMAT. AS A MINIMUM, THE REPORT SHALL REFLECT THE CONTRACT NUMBER, CONTRACT ITEM NUMBER AND DESCRIPTION, THE DOLLAR VOLUME PURCHASED OF EACH ITEM, AGENCY IDENTIFICATION, AND THE CONTRACT TOTAL. THE REPORT SHALL BE FILED WITHIN THIRTY (30) DAYS AFTER THE END OF EACH REPORTING PERIOD. ANY EXCEPTION TO THIS MANDATORY REQUIREMENT MAY RESULT IN CANCELLATION OF THE AWARD. FAILURE TO PROVIDE THE REPORT WITH THE MINIMUM REQUIRED INFORMATION MAY ALSO NEGATE ANY CONTRACT EXTENSION CLAUSES. THE USAGE REPORT SHALL BE EMAILED TO THE DGS.STATEWIDECONTRACTSUSAGEREPORT@MARYLAND.GOV.

ELECTRONIC FEE:

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CONTRACTOR SHALL PAY AN ELECTRONIC TRANSACTION FEE TO THE STATE IN THE AMOUNT OF ONE PERCENT (1%) OF THE TOTAL CONTRACT SALES. THE ELECTRONIC TRANSACTION FEE IS CALCULATED BASED ON ALL SALES TRANSACTED UNDER THE CONTRACT, MINUS ANY RETURNS OR CREDITS. THE ELECTRONIC TRANSACTION FEE SHALL NOT BE CHARGED DIRECTLY TO THE CUSTOMER, E.G., AS A SEPARATE LINE ITEM, FEE OR SURCHARGE, BUT SHALL BE INCLUDED IN THE CONTRACT'S UNIT PRICES.

THE ELECTRONIC TRANSACTION FEE SHALL BE SUBMITTED TO THE OFFICE OF STATE PROCUREMENT, FISCAL SERVICES DIVISION, 301 W. PRESTON STREET, ROOM 1309, BALTIMORE, MD, 21201, THIRTY (30) DAYS AFTER THE END OF EACH REPORTING PERIOD ALONG WITH A MONTHLY USAGE REPORT DOCUMENTING ALL CONTRACT SALES. AN EXCEL VERSION OF THE MONTHLY USAGE REPORT SHALL BE EMAILED TO DGS.STATEWIDECONTRACTSUSAGEREPORT@MARYLAND.GOV.

FAILURE TO REMIT TRANSACTION FEES MAY RESULT IN THE STATE EXERCISING ALL RECOURSE AVAILABLE UNDER THE CONTRACT INCLUDING, BUT NOT LIMITED TO A THIRD-PARTY AUDIT OF ALL CONTRACT ACTIVITY. SHOULD AN AUDIT BE REQUIRED BY THE STATE, THE CONTRACTOR SHALL REIMBURSE THE STATE FOR ALL COSTS ASSOCIATED WITH THE AUDIT UP TO \$10,000.00 OR ONE (1%) PERCENT OF THE CONTRACT'S ESTIMATED ANNUAL VALUE, WHICHEVER IS HIGHER.

PRIOR TO AWARD, CONTRACTORS WILL BE ASKED TO CONFIRM IN WRITING THAT THEIR UNIT PRICES INCLUDE THE ONE PERCENT (1%) ELECTRONIC TRANSACTION FEE.

PRICE ADJUSTMENT:

THE PRICE ADJUSTMENTS FOR THE RENEWALS SHALL BE NEGOTIATED AND MUTUALLY AGREED UPON BY DGS AND THE CONTRACTORS. ALTHOUGH EACH EACH NEGOTIATION WILL BE CARRIED OUT INDEPENDENTLY, THE PERCENTAGE INCREASE OR THE MONETARY INCREASE SHALL BE THE SAME FOR ALL VENDORS. DGS RESERVES THE RIGHT TO RENEW ANY AND/OR ALL CONTRACTOR'S CONTRACTS. ANY CONTRACTS WHICH ARE NOT RENEWED MAY BE COMPETITIVELY RE-BID. ESTIMATED QUANTITIES WILL BE PROVIDED FOR ANY OR ALL RENEWAL OPTIONS. UPON RENEWAL, THE EXISTING CONTRACT TERMS AND CONDITIONS WILL APPLY.

METHOD OF REQUESTING AN ADJUSTMENT IS AS FOLLOWS:

THIRTY (30) DAYS PRIOR TO THE END OF EACH YEAR OF THE CONTRACT THE CONTRACTOR MAY REQUEST, IN WRITING, A COST ADJUSTMENT TO BE IN EFFECT FOR THE SUBSEQUENT YEARS OF THE CONTRACT. IF A CONTRACTOR FAILS TO REQUEST A PRICE ADJUSTMENT 30 DAYS PRIOR TO THE ADJUSTMENT DATE, THE ADJUSTMENT WILL BE EFFECTIVE 30 DAYS AFTER THE STATE RECEIVES THEIR WRITTEN REQUEST.

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ANY PROPOSED INCREASE IN PRICE SHALL NOT EXCEED THE RATE OF INFLATION AS DETERMINED BY THE U.S. DEPARTMENT OF LABOR PRODUCER PRICE INDEX (PPI) FOR MEDICAL EQUIPMENT & SUPPLIES MFG., NOT SEASONALLY ADJUSTED, SERIES ID PCU3391, PUBLISHED BY THE BUREAU OF LABOR STATISTICS AT THE TIME OF THE REQUEST. THE DIFFERENCE BETWEEN THE PPI ISSUED FOR JUNE 2020, AND THE MOST RECENT PPI AT THE TIME OF THE REQUEST WILL DETERMINE THE MAXIMUM ALLOWABLE ADJUSTMENT OF THE ORIGINAL CONTRACT PRICE. NO RETROACTIVE CONTRACT PRICE ADJUSTMENTS WILL BE ALLOWED. UPON VERIFICATION THAT THE PRICE INCREASE REQUESTED MEETS THIS CONDITION, THE PRICE INCREASE SHALL BE GRANTED EFFECTIVE WITH THE START OF THE NEW CONTRACT YEAR.

PRICE REDUCTIONS MAY BE SUBMITTED BY THE CONTRACTOR AT ANY TIME DURING THE TERM OF THE CONTRACT AND WILL BECOME EFFECTIVE IMMEDIATELY.

DELIVERY AND ACCEPTANCE:

DELIVERY SHALL BE MADE IN ACCORDANCE WITH THE SOLICITATION SPECIFICATIONS. THE STATE, IN ITS SOLE DISCRETION, MAY EXTEND THE TIME OF PERFORMANCE FOR EXCUSABLE DELAYS DUE TO UNFORESEEABLE CAUSES BEYOND THE CONTRACTOR'S CONTROL. THE STATE UNILATERALLY MAY ORDER IN WRITING THE SUSPENSION, DELAY OR INTERRUPTION OF PERFORMANCE HEREUNDER. THE STATE RESERVES THE RIGHT TO TEST ANY MATERIALS, EQUIPMENT, SUPPLIES, OR SERVICES DELIVERED TO DETERMINE IF THE SPECIFICATIONS HAVE BEEN MET. THE MATERIALS LISTED IN THE BID OR PROPOSAL SHALL BE DELIVERED FOB THE POINT OR POINTS SPECIFIED ON EACH PURCHASE ORDER. ANY MATERIAL THAT IS DEFECTIVE OR FAILS TO MEET THE TERMS OF THE SOLICITATION SPECIFICATIONS SHALL BE REJECTED. REJECTED MATERIALS SHALL BE PROMPTLY REPLACED. THE STATE RESERVES THE RIGHT TO PURCHASE REPLACEMENT MATERIALS IN THE OPEN MARKET. CONTRACTORS FAILING TO PROMPTLY REPLACE MATERIALS LAWFULLY REJECTED SHALL BE LIABLE FOR ANY EXCESS PRICE PAID FOR THE REPLACEMENT, PLUS APPLICABLE EXPENSES, IF ANY.

PURCHASES BY OTHER ENTITIES - INDEFINITE QUANTITY CONTRACTS:

THIS PROVISION APPLIES TO INDEFINITE QUANTITY CONTRACTS.

PURSUANT TO THE STATE FINANCE AND PROCUREMENT ARTICLE, SECTION 13-110 OF THE ANNOTATED CODE OF MARYLAND, EXCEPT FOR ENTITIES DESCRIBED IN (6) (A) THE FOLLOWING ENTITIES MAY PURCHASE MATERIALS, SUPPLIES, AND EQUIPMENT UNDER THIS CONTRACT:

- (1) A COUNTY OR BALTIMORE CITY;
- (2) A MUNICIPAL CORPORATION;
- (3) A GOVERNMENTAL AGENCY IN THE STATE;
- (4) A PUBLIC OR QUASI-PUBLIC AGENCY THAT:
 - (I) RECEIVES STATE MONEY;
 - (II) IS EXEMPT FROM TAXATION UNDER SECTION 501(C)(3) OF THE

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INTERNAL REVENUE CODE;

- (5) A PRIVATE ELEMENTARY OR SECONDARY SCHOOL THAT:
- (I) EITHER HAS BEEN ISSUED A CERTIFICATE OF APPROVAL FROM THE STATE BOARD OF EDUCATION OR IS ACCREDITED BY THE ASSOCIATION OF INDEPENDENT SCHOOLS;
 - (II) IS EXEMPT FROM TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE; OR
- (6) A NON-PUBLIC INSTITUTION OF HIGHER EDUCATION UNDER SECTION 17-106 OF THE EDUCATION ARTICLE.
- (A) A PRIVATE ELEMENTARY OR SECONDARY SCHOOL OR A NONPUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT PURCHASE RELIGIOUS MATERIALS UNDER THIS CONTRACT.
 - B) THE RIGHT TO PURCHASE UNDER THIS SECTION SHALL BE IN ADDITION TO, BUT NOT IN SUBSTITUTION FOR, THE APPLICABLE PURCHASING POWER GRANTED TO ANY OF THE LISTED ENTITIES PURSUANT TO ANY STATUTORY OR CHARTER PROVISION.
- (7) ANOTHER STATE OR AN AGENCY OR OTHER INSTRUMENTALITY OF ANOTHER STATE.

ALL PURCHASES UNDER THIS CONTRACT BY ANY SUCH ENTITY WHICH IS NOT A UNIT OR AGENCY OF THE STATE OF MARYLAND FOR WHICH THE STATE OF MARYLAND MAY BE HELD LIABLE IN CONTRACT (1) SHALL CONSTITUTE A PURCHASE OR CONTRACT BETWEEN THE CONTRACTOR AND THAT ENTITY ONLY; (2) SHALL NOT CONSTITUTE A PURCHASE OR CONTRACT OF THE STATE OF MARYLAND; (3) SHALL NOT BE BINDING OR ENFORCEABLE AGAINST THE STATE OF MARYLAND OR ANY OF ITS UNITS OR AGENCIES; AND (4) MAY BE SUBJECT TO OTHER TERMS AND CONDITIONS AGREED TO BY THE CONTRACTOR AND THE PURCHASER.

CONTRACTOR BEARS THE RISK OF DETERMINING WHETHER OR NOT ANY ENTITY FROM WHICH THE CONTRACTOR RECEIVES AN ORDER UNDER THE CONTRACT IS A UNIT OR AGENCY OF THE STATE OF MARYLAND SUCH THAT THE CONTRACT MAY BE ENFORCED AGAINST THE STATE OF MARYLAND.

THE BIDDER'S EXECUTION AND SUBMISSION OF A RESPONSIVE BID CONSTITUTES A PROMISE BY THE BIDDER TO PERFORM THE CONTRACT SOLICITED BY THE DEPARTMENT IN ACCORDANCE WITH THE TERMS AND CONDITIONS STATED IN THE SOLICITATION. THE BID SHALL BE IRREVOCABLE FOR THE PERIOD STATED IN THE SOLICITATION OR FOR SUCH LONGER PERIOD AS THE BIDDER AND THE DEPARTMENT MAY AGREE.

PAYMENT OF STATE OBLIGATIONS:

BY SUBMITTING A RESPONSE TO THIS SOLICITATION, THE BIDDER AGREES TO ACCEPT PAYMENTS BY ELECTRONIC FUNDS TRANSFER (EFT), CHECK AND/OR MAJOR CREDIT CARD (E.G., VISA, MASTERCARD, ETC.). THERE SHALL BE NO

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ADDITIONAL FEES FOR PAYMENT BY ANY OF THE METHODS LISTED ABOVE.

PAYMENTS TO THE CONTRACTOR PURSUANT TO THIS CONTRACT SHALL BE MADE NO LATER THAN 30 DAYS AFTER THE STATE'S RECEIPT OF A PROPER INVOICE FROM THE CONTRACTOR. CHARGES FOR LATE PAYMENT OF INVOICES, OTHER THAN AS PRESCRIBED BY TITLE 15, SUBTITLE 1, OF THE STATE FINANCE AND PROCUREMENT ARTICLE, ANNOTATED CODE OF MARYLAND, OR BY THE PUBLIC SERVICE COMMISSION OF MARYLAND WITH RESPECT TO REGULATED PUBLIC UTILITIES, AS APPLICABLE, ARE PROHIBITED.

TERMINATION FOR DEFAULT:

IF THE CONTRACTOR FAILS TO FULFILL ITS OBLIGATIONS UNDER THIS CONTRACT PROPERLY AND ON TIME, OR OTHERWISE VIOLATES ANY PROVISION OF THE CONTRACT, THE STATE MAY TERMINATE THE CONTRACT BY WRITTEN NOTICE TO THE CONTRACTOR. THE NOTICE SHALL SPECIFY THE ACTS OR OMISSIONS RELIED UPON AS CAUSE FOR TERMINATION. ALL FINISHED OR UNFINISHED WORK PROVIDED BY THE CONTRACTOR SHALL, AT THE STATE'S OPTION, BECOME THE STATE'S PROPERTY. THE STATE SHALL PAY THE CONTRACTOR FAIR AND EQUITABLE COMPENSATION FOR SATISFACTORY PERFORMANCE PRIOR TO RECEIPT OF NOTICE OF TERMINATION, LESS THE AMOUNT OF DAMAGES CAUSED BY THE CONTRACTOR'S BREACH. IF THE DAMAGES ARE MORE THAN THE COMPENSATION PAYABLE TO THE CONTRACTOR, THE CONTRACTOR WILL REMAIN LIABLE AFTER TERMINATION AND THE STATE CAN AFFIRMATIVELY COLLECT DAMAGES. TERMINATION HEREUNDER, INCLUDING THE TERMINATION OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES, SHALL BE GOVERNED BY THE PROVISIONS OF COMAR 21.07.01.11B.

TERMINATION OF CONVENIENCE:

THE PERFORMANCE OF WORK UNDER THIS CONTRACT MAY BE TERMINATED BY THE STATE IN ACCORDANCE WITH THIS CLAUSE IN WHOLE, OR FROM TIME TO TIME IN PART, WHENEVER THE STATE SHALL DETERMINE THAT SUCH TERMINATION IS IN THE BEST INTEREST OF THE STATE. THE STATE WILL PAY ALL REASONABLE COSTS ASSOCIATED WITH THIS CONTRACT THAT THE CONTRACTOR HAS INCURRED UP TO THE DATE OF TERMINATION, AND ALL REASONABLE COSTS ASSOCIATED WITH TERMINATION OF THE CONTRACT. HOWEVER, THE CONTRACTOR SHALL NOT BE REIMBURSED FOR ANY ANTICIPATORY PROFITS THAT HAVE NOT BEEN EARNED UP TO THE DATE OF TERMINATION. TERMINATION HEREUNDER, INCLUDING THE DETERMINATION OF THE RIGHTS AND OBLIGATIONS OF THE PARTIES, SHALL BE GOVERNED BY THE PROVISIONS OF COMAR 21.07.01.12A (2).

FEDERAL FUNDING ACKNOWLEDGEMENT:

THERE ARE PROGRAMMATIC CONDITIONS THAT MAY APPLY TO THE CONTRACT DUE

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TO FEDERAL FUNDING (SEE ATTACHMENT G).

THERE MAY BE TIMES WHEN THE ENTITIES USING THIS CONTRACT WILL USE FEDERAL FUNDING OR SEEK FEDERAL REIMBURSEMENT. THEREFORE, THE STATE OF MARYLAND EMERGENCY PROCUREMENT CONTRACT ADDENDUM FOR FEDERAL PUBLIC ASSISTANCE OR FEDERAL REIMBURSEMENTS (EXHIBIT 1) SHALL APPLY TO THIS CONTRACT.

PURCHASE ORDERS ISSUED UNDER THIS CONTRACT MAY CONTAIN FEDERAL FUNDS. THE CONDITIONS THAT APPLY TO ALL FEDERAL FUNDS AWARDED BY THE DEPARTMENT ARE CONTAINED IN FEDERAL FUNDS ATTACHMENT G. ANY ADDITIONAL CONDITIONS THAT APPLY TO FEDERALLY-FUNDED PURCHASE ORDERS ISSUED UNDER THIS CONTRACT ARE CONTAINED AS SUPPLEMENTS TO FEDERAL FUNDS ATTACHMENT G AND BIDDERS ARE TO COMPLETE AND SUBMIT THESE ATTACHMENTS WITH THEIR BIDS AS INSTRUCTED IN THE ATTACHMENTS. ACCEPTANCE OF THIS AGREEMENT INDICATES THE BIDDERS INTENT TO COMPLY WITH ALL CONDITIONS, WHICH ARE PART OF THE CONTRACT.

A BIDDER, EITHER DIRECTLY OR THROUGH ITS SUBCONTRACTOR(S), MUST BE ABLE TO PROVIDE ALL GOODS AND MEET ALL THE REQUIREMENTS REQUESTED IN THIS SOLICITATION AND THE SUCCESSFUL BIDDER (THE CONTRACTOR) SHALL REMAIN RESPONSIBLE FOR CONTRACT PERFORMANCE REGARDLESS OF SUBCONTRACTOR PARTICIPATION IN THE WORK. IT IS ANTICIPATED THAT CONTRACT AWARDS WILL BE MADE FOR A PRIMARY SUPPLIER, A SECONDARY SUPPLIER, AND A TERTIARY SUPPLIER. THE PRIMARY SUPPLIER WILL BE ASKED TO PROVIDE THE REQUESTED ORDER QUANTITIES FIRST. IF THE PRIMARY SUPPLIER CANNOT FULFILL THE ORDER, OR CAN GUARANTEE ONLY A PORTION OF THE ORDER, THE SECONDARY SUPPLIER WILL BE CONTACTED TO FULFILL THE ORDER IN TOTAL, OR THE REMAINING BALANCE ACCORDINGLY. IF THE PRIMARY AND SECONDARY SUPPLIERS CANNOT FULFILL THE ORDER OR CAN ONLY PARTIALLY FULFILL THE ORDER, THE TERTIARY SUPPLIER WILL BE ASKED TO FULFILL THE ORDER OR BALANCE OF THE ORDER.

THE PRECEDENCE OF THE CONTRACTOR WILL BE IDENTIFIED AS PRIMARY CONTRACTOR (1ST), SECONDARY CONTRACTOR (2ND), AND TERTIARY CONTRACTOR (3RD) PER LINE ITEM.

*****PPE PRODUCTS (SBR)*****

ITEM: 1

TERTIARY CONTRACTOR (3RD)

ITEM DESCRIPTION: ISOLATION GOWN LEVEL II - DISPOSABLE

UNIT OF MEASURE: EA

MANUFACTURER AND PRODUCT NUMBER: PULSAR PRODUCTS

NUMBER OF ITEMS PER PACK: 1

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BLANKET PURCHASE ORDER

STATE OF MARYLAND

***** STATE OF MARYLAND *****

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TERMS (cont'd):

NUMBER OF ITEMS PER CASE:100
PRICE PER CASE, INCLUDING SHIPPING COSTS,
DELIVERY WITHIN 45 CALENDAR DAYS:\$144.00
BASIS FOR AWARD-UNIT PRICE PER EACH ITEM INCLUDING
SHIPPING COSTS, DELIVERY WITHIN 45 CALENDAR DAYS
UNIT PRICE:\$1.44

ITEM: 2

TERTIARY CONTRACTOR (3RD)
ITEM DESCRIPTION: ISOLATION GOWN LEVEL III - DISPOSABLE
UNIT OF MEASURE: EA
MANUFACTURER AND PRODUCT NUMBER:PULSAR PRODUCTS
NUMBER OF ITEMS PER PACK:1
NUMBER OF ITEMS PER CASE:100
PRICE PER CASE, INCLUDING SHIPPING COSTS,
DELIVERY WITHIN 45 CALENDAR DAYS:\$155.00
BASIS FOR AWARD-UNIT PRICE PER EACH ITEM INCLUDING
SHIPPING COSTS, DELIVERY WITHIN 45 CALENDAR DAYS
UNIT PRICE:\$1.55

0001 93856-000000 EA

HOSPITAL AND MEDICAL EQUIPMENT

END OF ITEM LIST

***** LAST PAGE *****

AUTHORIZED BY: _____ DATE: _____

BUYER AUTHORIZED DESIGNEE