STATE OF NORTH CAROLINA

DEPARTMENT OF ADMINISTRATION
DIVISION OF PURCHASE AND CONTRACT
RALEIGH, NC

CONTRACT CERTIFICATION

THIS IS NOT A PURCHASE ORDER!

BID/FILE NUMBER: 201101039

THIS BID NUMBER MUST BE SHOWN ON YOUR PURCHASE ORDER.

TO: Angela Wainright
DEPARTMENT - Crime Control and Public Safety
Raleigh, NC 27699

DATE: August 25, 2011
REQUISITION NO: PR10831895R-1
TERMS: Net
DELIVERY: As Specified

In accordance with the requirements of General Statutes 143-52 and 143-53, we certify contract on the items listed below to be ordered by you. Issue orders immediately direct to the Vendor listed, giving complete shipping instructions. Order only the item(s) listed and in the quantity(ies) shown. Price(s) includes delivery to destination. Read the contract in its entirety including the attached General Contract Terms and Conditions to be aware of any action necessary on your part.

COMMODITY NO: 393-00
FOOD FOR THE ACADEMY per terms and conditions of the attached contract $60,455.64

VENDOR:
US Foodservice
Attention: Gary Hinson, VP Sales
1500 NC Hwy 39
PO Box 1248
Zebulon, NC 27597

Teresa Chaney

INSTRUCTIONS TO VENDORS:

1. THIS IS NOT A PURCHASE ORDER. Do not make shipment until you have received an official order from the using agency.
2. Invoices should be made out to the using agency and forwarded direct to them for payment.
3. The exact items certified and ordered must be shipped. No substitutions shall be made without prior approval of the Division of Purchase and Contract.
4. Applicable North Carolina sales and use tax shall be added to invoices as a separate item.
5. Please note the contract award description above; the contract awarded to you may be a portion of the contract rather than the complete contract.

STATE OF NORTH CAROLINA NC Department of Administration Division of Purchase and Contract	INVITATION FOR BIDS NO. 201101039
	Bids will be publicly opened: August 15, 2011
	Contract Type: **Agency Specific Term Contract**
Refer ALL Inquiries to: Teresa Chaney	Commodity: **GROCERY BID**
Telephone No. 919-807-4540	
E-Mail: teresa.chaney@doa.nc.gov	Using Agency Name: DEPARTMENT - Crime Control & P.S.
(See page 2 for mailing instructions.)	Agency Requisition No.: PR10831895R-1
INTERNET ADDRESS: http://www.pandc.nc.gov/	

NOTICE TO BIDDERS

Sealed bids, subject to the conditions made a part hereof, will be received at this office (116 W. Jones St., Raleigh, NC) until **2 o'clock p.m.** on the day of opening and then opened, for furnishing and delivering the commodity as described herein. Refer to page 2 for proper mailing instructions.

Bids submitted via telegraph, facsimile (FAX) machine, telephone, and electronic means, including but not limited to e-mail, in response to this Invitation for Bids will not be acceptable. Bids are subject to rejection unless submitted on this form.

Please review the new additions to the Instructions to Bidders, which are found in new paragraphs 22 ("Confidentiality of Bids," which prohibits certain types of communications during the procurement process and any violation of this provision may subject bidder's bid to disqualification) and 23 (Executive Order #50-Price-Matching Preference); and review the changes to paragraphs 15 (Award of Contract) and 19 (Protest Procedures) in the Instructions to Bidders, which are required to implement Executive Order 50.

EXECUTION

In compliance with this Invitation for Bids, and subject to all the conditions herein, the undersigned offers and agrees to furnish and deliver any or all items upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, I certify that this bid is submitted competitively and without collusion (G.S. 143-54), that none of our officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that we are not an ineligible vendor as set forth in G.S. 143-59.1. False certification is a Class I felony.

Failure to execute/sign bid prior to submittal shall render bid invalid. Late bids are not acceptable.

BIDDER: U.S. Foodservice, Inc.		
STREET ADDRESS: 1500 NC Hwy 39	P.O. BOX:	ZIP:27597
CITY & STATE & ZIP: Zebulon, NC 27597	TELEPHONE NUMBER: 919-404-4100	TOLL FREE TEL. NO (800)662-7524
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO BIDDERS ITEM #21):		
N.C.G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.		
PRINT NAME & TITLE OF PERSON SIGNING: Gary Hinson, VP of Sales		FAX NUMBER:919-404-4136
AUTHORIZED SIGNATURE:	DATE: 08/11/11	E-MAIL:gary.hinson@usfood.com

Offer valid for 45 days from date of bid opening unless otherwise stated here: ____ days (See Instructions to Bidders, Item 6). Prompt Payment Discount: _____ %_____days (See Instructions to Bidders, Item 7).

ACCEPTANCE OF BID

If any or all parts of this bid are accepted by the State of North Carolina, an authorized representative of the Division of Purchase and Contract shall affix their signature hereto and this document and the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful bidder(s).

FOR STATE USE ONLY

Offer accepted and contract awarded this 25th day of August, 2011, as indicated on attached certification,

by Teresa Chaney (Authorized representative of the Division of Purchase and Contract).

In an effort to support the sustainability efforts of the State of North Carolina we solicit your cooperation in this effort.

It is desirable that all responses meet the following requirements:

- All copies are printed **double sided**.
- All submittals and copies are printed on **recycled paper with a minimum post-consumer content of 30%** and indicate this information accordingly on the response.
- Unless absolutely necessary, all bids and copies should **minimize or eliminate use of non-recyclable or non re-usable materials** such as plastic report covers, plastic dividers, vinyl sleeves, and GBC binding. Three-ringed binders, glued materials, paper clips, and staples are acceptable.
- Materials should be submitted in a format which allows for **easy removal and recycling** of paper materials.

MAILING INSTRUCTIONS: Mail only one fully executed bid document, unless otherwise instructed, and only one bid per envelope. Address envelope and insert bid number as shown below. It is the responsibility of the bidder to have the bid in this office by the specified time and date of opening.

DELIVERED BY US POSTAL SERVICE (REGULAR/STANDARD MAIL ONLY)	DELIVERED BY ANY OTHER MEANS/SPECIAL DELIVERY/OVERNIGHT (BY ANY OTHER CARRIER)
BID NO.	BID NO.
NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 1305 MAIL SERVICE CENTER RALEIGH NC 27699-1305	NC DEPARTMENT OF ADMINISTRATION DIVISION OF PURCHASE AND CONTRACT 116 WEST JONES STREET Room 4062 4th Flr. RALEIGH NC 27603-8002

**********SPECIAL NOTE – PLEASE READ**********

The US Postal Service DOES NOT deliver any mail (US Postal Express Mail, Certified, Priority, Overnight, etc.) to our physical address of 116 West Jones Street.

TABULATIONS: The Division has implemented an Interactive Purchasing System (IPS) that allows the public to retrieve bid tabulations electronically from our Internet web site: http://www.pandc.nc.gov/. Click on the IPS BIDS icon, click on Search for Bid, enter the bid number, and then search. Tabulations will normally be available at this web site not later than one working day after opening. Lengthy tabulations may not be available on the Internet, and requests for these verbally or in writing cannot be honored. .

VENDOR REGISTRATION AND SOLICITATION NOTIFICATION SYSTEM: Vendor Link NC allows vendors to electronically register free with the State to receive electronic notification of current procurement opportunities for goods and services available on the Interactive Purchasing System. Online registration and other purchasing information are available on our Internet web site: http://www.pandc.nc.gov/.

EXECUTIVE ORDER NO. 50 (PRICE-MATCHING PREFERENCE):

Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses," a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) or $10,000, whichever is less, of the nonresident bidder's price. If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder's price.

Executive Order #50 applies to procurements from the Governor's Office, Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation), Universities

and Community Colleges and all procurements handled by the Division of Purchase and Contract. All other State Agencies are encouraged to implement the requirements of the Executive Order #50 and vendors should contact these State Agencies to determine whether they have adopted and implemented Executive Order #50.

ANY RESIDENT BIDDER REQUESTING THIS PREFERENCE SHOULD CAREFULLY REVIEW PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, WHICH PROVIDES MORE INFORMATION REGARDING THE DEFINITION OF RESIDENT AND NONRESIDENT BIDDERS; THE QUALIFICATION PROCESS FOR GRANTING THE PREFERENCE AND HOW THE CONTRACT WILL BE AWARDED IF THE PREFERENCE IS APPLICABLE.

ALL BIDDERS (RESIDENT AND NONRESIDENT) MUST ANSWER THE FOLLOWING QUESTION:

1 **Bidder is a resident of North Carolina as defined in G.S. § 143-59:**

(Bidder may be deemed a **nonresident bidder**, if it failed to circle any choice.)

YES / NO
(circle one)

ALL RESIDENT BIDDERS REQUESTING A PRICE-MATCHING PREFERENCE MUST ANSWER THE FOLLOWING QUESTION AND MUST COMPLETE "RESIDENT BIDDER'S CERTIFICATION FOR PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50", WHICH IS BELOW AFTER QUESTION 2. AS STATED ABOVE AND PARAGRAPH 23 OF THE INSTRUCTIONS TO BIDDERS, A RESIDENT BIDDER ANSWERING "YES" TO THE QUESTION BELOW AND IS QUALIFIED FOR THE PRICE-MATCHING PREFERENCE WILL BE GIVEN AN OPPORTUNITY TO ACCEPT OR DECLINE THE CONTRACT AWARD WITHIN THE SPECIFIED PERIOD OF TIME.

2 **Resident Bidder requests the price-matching preference:**

(Bidder shall be deemed **not** to have requested the preference, if it failed to circle any choice and did not complete the Resident Bidder's Certification. If a Bidder failed to circle a choice above and completed and notarized the Bidder's Certification, then it will have been deemed to have responded YES to the above question.)

YES / NO
(circle one)

RESIDENT BIDDER'S CERTIFICATION FOR PRICE-MATCHING PREFERENCE UNDER EXECUTIVE ORDER #50

NOTICE: The Price-Matching Preference will only be given to bidders that fully complete this affidavit (i.e., all information must be provided, all supporting documents must be attached, the affidavit must be signed by an authorized representative of the bidder and the affidavit must be notarized) and demonstrate their qualifications for the Price-Matching Preference through the certification and information provided in this affidavit and any required attachments.

Affidavit of _____ (name of resident bidder, hereinafter the "Bidder")

PART I

Please check the box applicable to the Bidder's business in order for the Bidder to be considered for the price-matching preference established by Executive Order #50 and North Carolina General Statute § 143-59(c)(1).

[X] I hereby certify that the Bidder paid unemployment taxes to the State of North Carolina for the most recent quarter or annually, and has specifically done so for the last such payment period.

OR

[ ] I hereby certify that the Bidder paid income taxes to the State of North Carolina each calendar quarter, or otherwise annually, and has specifically done so for the last such payment period.

PART II

1. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(1), in that, Bidder's principal place of business is located in North Carolina. YES / NO (circle one)

A. **Business Type** (circle one of the following): CORPORATION (ALL TYPES); LIMITED LIABILITY COMPANY; GENERAL PARTNERSHIP; LIMITED PARTNERSHIP; LIMITED LIABILITY PARTNERSHIP; SOLE PROPRIERTORSHIP; INDIVIDUAL; UNINCORPORATED ASSOCIATION; OR OTHER.

B. Provide address of principal place of business/principal office in North Carolina:

1500 NC Hwy 39

Zebulon, NC 27597

Is the above address the location of Bidder's headquarters? YES / NO (circle one)

If Bidder has a public website, provide the link/address:www.raleigh.usfoodservice.com

C **ATTACH A COPY OF BIDDER'S MOST RECENT FILINGS WITH THE NORTH CAROLINA SECRETARY OF STATE** (such as Bidder's Certificate of Authority, Annual Report or such other filing that discloses a North Carolina business address for the Bidder).

OR (check the box below)

☐ Bidder certifies that its business is **not** required to make filings with the North Carolina Secretary of State.

2. I hereby certify that the Bidder is a resident of the State of North Carolina under North Carolina General Statute § 143-59(c)(3), in that, Bidder directs or manages its trade or business from its principal place of business in North Carolina. YES / NO (circle one)

A. State the number of Bidder's employees that work at the North Carolina principal place of business: 634

B. State the total number of employees in Bidder's entire workforce: 25,000

C Briefly describe in the box below how Bidder manages or directs its business or trade from its North Carolina principal place of business:

Bidder operates a distribution center and office building located in Zebulon, NC. All primary Distribution Center operations are managed by an on-site Executive Team.

IF BIDDER DESIRES TO KEEP CONFIDENTIAL ITS ANSWERS TO QUESTION 2.A, B AND C ABOVE PURSUANT TO PARAGRAPH 17 OF THE INSTRUCTIONS TO BIDDERS, THEN PLEASE CIRCLE YES OR NO IN THE BOX. IF BIDDER FAILS TO CIRCLE YES FOR ANY REASON, THEN BIDDER'S ANSWERS MAY BE SUBJECT TO PUBLIC DISCLOSURE. YES / NO

NORTH CAROLINA
Department of The Secretary of State

CERTIFICATE OF AUTHORIZATION

I, Elaine F. Marshall, Secretary of State of the State of North Carolina, do hereby certify that

U.S. FOODSERVICE, INC.

a corporation organized under the laws of Delaware was authorized to transact business in the State of North Carolina by issuance of a certificate of authority on the 2nd day of January, 2001.

I FURTHER certify that the said corporation's certificate of authority is not suspended for failure to comply with the Revenue Act of the State of North Carolina; that the said corporation's certificate of authority is not revoked for failure to comply with the provisions of the North Carolina Business Corporation Act; that its most recent annual report required by G.S. 55-16-22 has been delivered to the Secretary of State; and that a certificate of withdrawal has not been issued in the name of the said corporation as of the date of this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal at the City of Raleigh, this 20th day of January, 2011.

Elaine F. Marshall

Secretary of State

Certification# 91104671-1 Reference# 10394030- Page: 1 of 1
Verify this certificate online at www.secretary.state.nc.us/verification

PART III

By executing this affidavit, the Bidder agrees to provide any additional information or documentation requested by the State (during the procurement process seeking clarification of the request for the Price-Matching Preference or after contract award to resolve any bid protest) to confirm the above certifications and statements within five (5) business days of request (including tax filings in North Carolina, banking statements, financial and accounting statements reflecting Bidder's payment of the subject taxes, and any other documentation that may establish Bidder's principal place of business in North Carolina, including but not limited to information regarding the amount of income and unemployment taxes paid to other states and number of employees in North Carolina and number of employees in other states). Pursuant to G.S. §§ 132-1.1, 105-259(b) and Paragraph 17 of the Instructions to Bidders, the State is prohibited from making public disclosures of the bidder's tax information and documents (except if one of the 39 exceptions applies in G.S. § 105-259(b)) and the State shall preserve the confidentiality of the information and/or documents received in response to a request for clarification (or, as discussed below, to resolve a bid protest challenging resident bidder's qualification for the price-matching preference). In order to further preserve the confidentiality of bidder's tax information and documentation provided the State, the bidder shall comply with Paragraph 17 of the Instructions to Bidders and mark "CONFIDENTIAL" at the top and bottom of each page of the information and documentation. Bidder further understands and agrees that if Bidder fails to provide the State with the additional information and documentation within five (5) business days of the request; or the State determines that certifications or information in this Affidavit are false at any time after the contract is awarded to Bidder, the State may:

(1) Cancel the Bidder's contract and/or purchase order that was awarded based on the price-matching preference and Bidder shall be liable for all its cost it incurs as a result of the cancellation and all increased costs of the State by awarding the contract to the next lowest bidder;

(2) Bidder will not be entitled to any price-matching preference in any future State bidding opportunities;

(3) Action may be taken against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or

(4) Debar Bidder from doing business with the State of North Carolina for a period determined by the State Purchasing Officer and/or Board of Award.

The undersigned hereby certifies that he or she has read this certification and is an officer, member, partner, owner or such managing employee of the Bidder (the "Authorized Representative") that is authorized to execute this affidavit and to bind the Bidder to the certifications, statements and agreements herein.

Name of Authorized Representative:

Signature:

Title: VP of Sales

Date: 8-11-11

State of North Carolina, County of Wake

Subscribed and sworn to before me this 11th day of August 2011

Notary Public: Lola L. Lynch
My commission expires 7-3-2014

LOLA L. LYNCH
NOTARY PUBLIC
NASH COUNTY, NC

E-PROCUREMENT: This is an e-procurement solicitation. See paragraph #19 of the attached General Contract Terms and Conditions. The Terms and Conditions made part of this solicitation contain language necessary for North Carolina's statewide e-procurement initiative. It is the offeror's responsibility to read these terms and conditions carefully and considers them in preparing the offer. By signature offeror acknowledges acceptance of all terms and conditions, including those related to e-procurement.

General information on the e-procurement service can be found at: http://eprocurement.nc.gov

SCOPE:

The Tarheel Challenge Academy, located at 600 North Main Street in Salemburg, North Carolina, is a residential program with approximately 320-340 students attending each year. The Academy provides three meals a day seven days a week for these students. We would like to have the prices firm for one year if at all possible.

Orders shall be placed both weekly and bi-weekly by the school. Deliveries will be taken directly to the kitchen and storage rooms. There is no loading dock but school personnel will assist unloading the trucks. The Tarheel Challenge Academy will need to place their first order immediately after the award of this contract is made due to the critical timing of the school year and the ending of the last bid on July 31, 2011.

This is an ***Agency Specific Term Contract*** for use by the agency specified herein from date of award for twelve (12) months. ***NOTE:*** PLEASE REVIEW THE TERMS AND CONDITIONS IN THE BACK PAGES OF THIS BID DOCUMENT WHICH EXPLAIN THE STATE'S GUIDELINES FOR AN AGENCY SPECIFIC TERM CONTRACT AND CALL IF YOU DO NOT FULLY UNDERSTAND THE MAGNITUDE OF THIS CONTRACT.

Quantities are ***estimates*** and the State is only responsible for items ordered and received. No quantities are guaranteed, the amounts listed herein are for a 12 month period. MINIMUM ORDER FOR FREE TRANSPORTATION IS $200 PER SHIPMENT. All other orders shall be shipped prepaid and freight charges added to the invoice.

In addition, due to unforeseen delays, termination date may be temporarily extended to allow time for a new contract to be in place.

PAST DUE E-PROCUREMENT FEES: A vendor's E-procurement accounts currently has/have or had a balance 91 days or more past due, such past due status shall be considered in the contract award process.

DEBARMENT CERTIFICATION: By signing the execution page, bidder certifies to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency.

CLARIFICATIONS AND QUESTIONS:
Bidder is to notify purchaser in writing by email **(NO CALLS)** to teresa.chaney@doa.nc.gov, at least 5 consecutive State business days before bid opening if bidder believes: 1) there may be an error in specifications, 2) if bidder is uncertain about the intent of a specific requirement/specification, terms and conditions including instructions to bidders or 3) if bidder has general questions. Questions submitted less than 5 consecutive State business days before the bid opening date may not be addressed. If necessary, the State will prepare written responses to all written questions submitted and addenda to this IFB will be posted to the Interactive Purchasing System (IPS- http://www.ncpandc.gov/ , click IPS bids, search by bid number), containing all questions and responses. Bidders supplying questions will not be identified in addenda; only the corresponding answers will be posted. Oral answers by any agent or representative of the State are not binding on the State. It is the bidders responsibility to review all addenda to this IFB and, if need be, sign and return addenda with the bidder's response.

TRANSPORTATION CHARGES: ***FOB DESTINATION.*** All transportation charges, including freight, handling and distribution charges, shall be included in your offered price(s) and not listed as a separate line item.

USER: NC Department of Crime Control and Public Safety, Tarheel Challenge Academy located at Salemburg, NC 28385.

NOTICE TO BIDDERS:
Bidders are NOT authorized to contact the Using Agency directly at any time during the formal bidding process. Failure to comply with this requirement will result in the rejection of your bid. No Exceptions.

SHIPMENT: The purchase order number must be shown on all packages and shipping manifests to ensure proper identification and payment of invoices. Complete packing list must accompany each shipment.

BID DISQUALIFICATION: This section is crucial in the bidding, bid evaluation, and award process. All bidders should read and understand the following:

1. By taking deviations of any nature or magnitude to any requirement contained in this Invitation for Bid, you are risking disqualification of your bid. This is due in part to legal considerations concerning contract award. Depending on circumstances, it may or may not be possible for the State to award to a bid with deviations.

2. If you cannot fully meet all requirements contained in this Invitation for Bid, you are urged to email purchaser named above as soon as possible, but in all cases before bid opening date. This may allow the State to consider your deviation(s) and, if feasible, to release an Invitation for Bid addendum modifying the requirements concerned.

BID EVALUATION: Bids are requested on the items and/or equipment as hereinafter specified or like items similar in design, function and performance. The State reserves the right to reject any bid on the basis of function, compatibility with user's intended use or applications as well as costs. Bidder(s) are cautioned that any/all information furnished or not furnished on this bid may be used as a factor in determining the award of this contract.

AWARD CRITERIA: As provided by Statute, award will be based on the lowest and best bid(s) (most advantageous to the State) as determined by consideration of:

1)Price
2)Quality of item offered
3)General reputation and performance capabilities of bidder
4)Suitability of item(s) for intended use
5)Conformity with intent of specifications herein
6)Guaranteed delivery schedule
7)Evaluation of samples, if required

AWARD OF CONTRACT: The right is reserved to award this contract to a single overall bidder on all items, or to make awards on the basis of individual items or groups of items, whichever shall be considered by the State to be most advantageous or to constitute its best interest. Bidders should show unit prices, but are requested also to offer a lump sum price.

DEVIATIONS: Any deviations from specifications and requirements herein must be clearly pointed out by bidder. Otherwise it will be considered that item(s) offered is in strict compliance with these specifications and requirements, and successful bidder will be held responsible therefore. Deviations must be explained in detail below or on an attached sheet. However, no implication is made by the State that deviations will be acceptable. Bidder is advised that the response (or lack thereof) on this question does not take precedence over specific responses or non-responses provided elsewhere in this bid.

DEBARMENT CERTIFICATION: The bidder certifies that to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency, as specifically addressed in Federal Acquisition Regulations, Subpart 9.4.

DELIVERY: The successful bidder will complete delivery within _ 14 ___ consecutive calendar days after receipt of purchase order.

Delivery will be made from Zebulon, NC (City & State).

COUNTRY OF ORIGIN: United States

RECYCLED CONTENT:

If the products offered herein contain any recycled content, indicate the material and content percentage:

Material _____ Percentage %: _____

If the packaging contains any recycled content, indicate here the material and content percentage:

Material _____ Percentage %:

NOTICE TO BIDDERS:
Bidders are NOT authorized to contact the Using Agency directly at any time during the formal bidding process. Failure to comply with this requirement will result in the rejection of your bid. No Exceptions.

PLEASE STAPLE YOUR BID-(NOT RESPONSIBLE FOR MISSING PAGES)

FURNISH AND DELIVER THE FOLLOWING ITEMS:

(If your offer is not the same exact product, content and container size/ounces/pounds as show below in the specifications, you MUST list those deviations at the end of this table in the area provided) Failure to do so, may subject your bid to rejection.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
1.	36	Each	1000 Island Dressing, Individual packs, (1 or 1.5 oz./pack) Monarch or in substantial compliance MFR. SIZE	$ 10.87	$ 391.32
2.	168	Ea.	Apple Juice, 70/6oz. cartons, Mr. J or in substantial compliance MFR. SIZE	$12.88	$2163.84
3.	24	Case	Apple Pie Filling, 6/#10 cans/case, Harvest Value or in substantial compliance MFR. SIZE	$39.30	$ 943.20
4.	24	Cases	Applesauce, Canned, 6/#10 cans/case Harvest Value or in substantial compliance MFR. SIZE	$25.67	$616.08
5.	24	Cases	Assorted Jelly, Pkg, 200/.5oz servings, Reid, Murdoch & Co. or in substantial compliance MFR. SIZE	$8.93	$214.32
6.	24	Cases	Baby Lima Beans, 6/#10 cans/case, Harvest Value or in substantial compliance with MFR. SIZE	$26.06	$625.44

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
7.	24	Cases	Baked Beans, 6/#10 cans/case, Harvest Value or in substantial compliance with MFR. SIZE	$19.96	$479.04
8.	12	Cases	BBQ Hickory Smoke Sauce, 4/1 gallon, Ken's or in substantial compliance with MFR. SIZE	$31.70	$380.40
9.	12	Cases	BBQ Sauce, 4/1 gallon, Ken's or in substantial compliance with MFR. SIZE	$16.43	$197.16
10.	36	Cases	Pork Beans, 6/#10 cans/case Harvest Value or in substantial compliance with MFR. SIZE	$19.21	$691.56
11.	12	Cases	Black Ground Pepper, 5lb. container, Monarch or in substantial compliance with MFR. SIZE	$31.36	$376.32
12.	12	Cases	Blueberry Muffins, 4/24/2.25oz. Otis Spunkmeyer or in substantial compliance with MFR. Hilltop HR SIZE 4/24/2.25 oz	$36.35	$436.20
13.	24	Cases	Brown Gravy Mix, 6/13oz, Reid, Murdoch & Co or in substantial compliance MFR. SIZE	$19.51	$468.24

BID No. **201101039**

BIDDER:U.S. Foodservice

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
14.	24	Cases	Brown Sugar, 50lb., Domino or in substantial compliance with MFR. SIZE	$37.16	$891.84
15.	12	Cases	Brownie Mix, 6/5lb., Gilester, Mary Lee or in substantial compliance with MFR. SIZE	$28.84	$346.08
16.	12	Cases	Butter Buds, Seasoning 24/4oz., Butter Bud or in substantial compliance with MFR. SIZE	$29.05	$348.60
17.	12	Cases	Butter Mints, 6/5lb. Hospitality or in substantial compliance with MFR. SIZE	$48.86	$586.32
18.	12	Cases	Celery Salt, 35oz., Reid, Murdoch & Co. or in substantial compliance with MFR. SIZE	$5.83	$69.96
19.	24	Cases	Cheddar Cheese Sauce, 6/#10 cans, Harvest Value, or in substantial compliance with MFR. SIZE	$35.78	$858.72
20.	12	Cases	Cheddar Cheese Substitute, 6/#10 cans, Havest Value or in substantial compliance with MFR. Packer SIZE 4/5#	$24.32	$291.84

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
21.	24	Cases	Cheese Sauce Mix, 6/4lb. bags, Gilester, Mary Lee or in substantial compliance with MFR.Diamond Crystal SIZE 16/16 oz. 9373499	$35.27	$846.48
22.	12	Cases	Cherry Gelatin, 48/3.5oz., Conagra or in substantial compliance MFR.Monarch SIZE 6/4.5# 1370675	$9.99	$119.88
23.	12	Cases	Chicken Flavor Bases, 12/1lb., Harvest Value, or in substantial compliance with MFR. SIZE	$18.86	$226.32
24.	12	Cases	Chicken Fryer Breader, 25lb. bags, House Autry, or in substantial compliance MFR. Atkinson SIZE 25#	$14.63	$175.56
25.	24	Cases	Chicken Gravy, 8/22.6oz., Trio or in substantial compliance with MFR. SIZE	$34.18	$820.32
26.	12	Cases	Chicken Noodle Soup, 24/7.25 oz Campbell Food or in substantial compliance with MFR. SIZE	$15.52	$186.24
27.	24	Cases	Chili Con carne, 6/#10 cans, Vannee Foods or in substantial compliance with MFR.Vanee Foods SIZE 6/10# 83097	$51.35	$1232.40

BID No. **201101039**

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
28.	24	Cases	Chili Powder mild, 18oz, Monarch or in substantial compliance with MFR. SIZE	$6.48	$155.52
29.	12	Cases	Chili Sauce, 6/#10 cans Monarch-D or in substantial compliance with MFR. SIZE	$22.50	$270.00
30.	12	Cases	Chili Tomato sauce, 6#10 cans, Monarch-D or in ~~substantial compliance with~~ MFR. **DUPLICATE LINE TO # 29** SIZE		$
31.	12	Cases	Chocolate high gloss icing, 22lb., CSM Bakery products or in substantial compliance with MFR. SIZE	$32.90	$394.80
32.	24	Cases	Chocolate Pudding, 6/#10 cans, US Food Service, or in substantial compliance with MFR. SIZE	$23.00	$552.00
33.	12	Cases	Chopped Onion Dehydrated, 15lb. Conagra FD or in substantial compliance with MFR. SIZE	$31.82	$381.84
34.	24	Cases	Chunk Pineapple, 6/#10 cans, Rykoff-Sexton International Bold, or in substantial compliance with MFR. SIZE	$32.05	$769.20

BID No. 201101039

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
35.	12	Cases	Cinnamon, Ground Spice, 6/16oz. Old Mansion Foods or in substantial compliance with MFR. SIZE	$19.32	$231.84
36.	24	Cases	Coffee, 96/1.7oz, Kraft's Foods, or in substantial compliance with MFR. SIZE	$79.87	$1916.88
37.	12	Cases	Confectioner Powdered Sugar, 50lb., Reid, Murdoch & Co, or in substantial compliance with MFR. SIZE	$36.01	$432.12
38.	24	Cases	Corn, 6#10 cans, Harvest Value, or in substantial compliance with MFR. SIZE	$22.39	$537.36
39.	12	Cases	Corn Starch, 24/lb, Arc Food, or in substantial compliance with MFR. SIZE	$16.91	$202.92
40.	24	Cases	Cornbread Mix, 6/5lb Hospitality, or in substantial compliance with MFR. SIZE	$22.84	$548.16
41.	12	Cases	Country Style Gravy, 6/105oz., Chef-Mate, or in substantial compliance with MFR. SIZE	$45.45	$545.40

BID No. **201101039**

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
42.	12	Cases	Cream of Chicken Soup, 12/50oz., Classic Tureen, or in substantial compliance with MFR. SIZE	$37.19	$446.28
43.	12	Cases	Cream of Mushroom soup, 12/50oz., Classic Tureen, or in substantial compliance with MFR. SIZE	$37.19	$446.28
44.	24	Cases	Diced Peaches, 6/#10 cans, Monarch-D, or in substantial compliance with MFR. SIZE	$32.60	$782.40
45.	24	Cases	Diced Pears, 6/#10 cans, Monarch-D, or in substantial compliance with MFR. SIZE	$33.07	$793.68
46.	12	Cases	Dill Pickles, 6/#10 cans, Reid & Murdock & Co, or in substantial compliance with MFR. SIZE	$26.29	$315.48
47.	24	Cases	Egg Noodles, 2/5lbs, Roseli Products, or in substantial compliance with MFR. SIZE	$10.61	$254.64
48.	24	Cases	Evaporated Milk, 24/12oz, Glenview Farms, or in substantial compliance with MFR. SIZE	$27.68	$664.32

BID No. 201101039 BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
49.	24	Case	French Dressing, 60/1.5oz, Ken's Foods, or in substantial compliance with MFR. SIZE	$11.40	$273.60
50.	24	Cases	Fruit Cocktail, 6/#10 cans, Monarch-D, or in substantial compliance with MFR. SIZE	$39.61	$950.64
51.	24	Cases	Fruit Punch, 12/24oz. Thirster or in substantial compliance with MFR. SIZE	$22.23	$533.52
52.	12	Cases	Garlic Powder Spice, 6lb., McCormick, or in substantial compliance with MFR. Monarch SIZE 6 lb 760884	$30.97	$371.64
53.	24	Cases	Garlic Salt, 6lb., McCormick, or in substantial compliance with MFR. Old Mansion SIZE 3/32 oz. (6 lb)	$11.34	$272.16
54.	168	Cases	Grape Juice, 70/6oz. Cartons, Mr. J or in substantial compliance with MFR. SIZE	$15.35	$2578.80
55.	48	Cases	Green Beans, 6/#10 cans, Harvest Value, or in substantial compliance with MFR. SIZE	$19.98	$959.04

BID No. **201101039** **BIDDER:U.S. Foodservice, Inc.**

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
56.	48	Cases	Green Sweet Peas, 6/#10 cans, Harvest Value, or in substantial compliance with MFR. SIZE	$24.45	$1173.60
57.	24	Cases	Hamburger Buns, 8/12pks, Hilltop Hearth Bakeries, or in substantial compliance with MFR. SIZE	$19.09	$458.16
58.	60	Cases	Honey Mustard Dressing, 60/1.5oz., Reid & Murdoch, or in substantial compliance with MFR. SIZE	$12.13	$727.80
59.	12	Cases	Hot Chocolate, 60/50ea., Rituals Coffee Company, or in substantial compliance with MFR. SIZE	$42.33	$507.96
60.	12	Cases	Hot Sauce, 4/1 gallon, TW Garner, or in substantial compliance with MFR. SIZE	$25.88	$310.56
61.	48	Cases	Hot Sauce PKTS 200/7g Texas Pete, or in substantial compliance with MFR. SIZE	$8.75	$420.00
62.	12	Cases	Instant Tea, 50/4oz., Nestle, or in substantial compliance with MFR. SIZE	$21.88	$262.56

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
63.	24	Cases	Italian Dressing, 60/1.5 oz., Ken's Foods, or in substantial compliance with MFR. SIZE	$8.48	$203.52
64.	24	Cases	Ketchup Packets, 1000/9gram, Monarch, or in substantial compliance with MFR. SIZE	$18.41	$441.84
65.	12	Cases	Lemon Juice, 12/32oz., Thirster, or in substantial compliance with MFR. SIZE	$20.75	$249.00
66.	24	Cases	Long Grain Parboiled rice, 50lb., Reid & Murdoch, or in substantial compliance with MFR. SIZE	$28.99	$695.76
67.	24	Cases	Macaroni & cheese, 4/5lb., Resers, or in substantial compliance with MFR. SIZE	$27.24	$701.76
68.	12	Cases	Macaroni Elbow, Pasta, 2/10lb., Roseli Products, or in substantial compliance with MFR. SIZE	$15.06	$180.72
69.	24	Cases	Mashed Potato, Flakes, 6/5.75 oz., Basic American Foods, or in substantial compliance with MFR. SIZE	$43.25	$1038.00

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
70.	12	Cases	Mayonnaise, Bulk Jar, 4/1 gallon Reid & Murdoch, or in substantial compliance with MFR. SIZE	$25.78	$309.36
71.	12	Cases	Mayonnaise, PKTS 200/12 gram, Monarch, or in substantial compliance with MFR. SIZE	$12.31	$147.72
72.	12	Cases	Meat Tenderizer, 35oz., McCormick, or in substantial compliance with MFR. SIZE	$6.06	$72.72
73.	12	Cases	Mild Chunky Salsa, 6/#10 cans, Red Gold, or in substantial compliance with MFR. SIZE	$25.87	$310.44
74.	12	Cases	Mini Marshmallow, 12/16oz, Gilester, Mary Lee or in substantial compliance with MFR. SIZE	$13.54	$162.48
75.	12	Cases	Mustard Bulk, 4/1 gallon, Monarch, or in substantial compliance with MFR. SIZE	$12.08	$144.96
76.	24	Cases	Mustard Packets, 500/5.5 gram, Monarch, or in substantial compliance with MFR. SIZE	$9.44	$226.56

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
77.	12	Cases	Nut Mix, 6/40oz., Monarch, or in substantial compliance with MFR. SIZE	$78.02	$936.24
78.	12	Cases	Nutmeg, spice, ground, 6/16oz., Reid & Murdoch & Co., or in substantial compliance with MFR. SIZE	$11.71	$140.52
79.	12	Cases	Oatmeal, 12/42oz., Quaker, or in substantial compliance with MFR. SIZE	$29.70	$356.40
80.	12	Cases	Onion Salt, 6/20oz., Reid & Murdoch & Co, or in substantial compliance with MFR. SIZE	$5.80	$69.60
81.	12	Cases	Orange Gelatin, 48/3.5oz., Conagra FD or in substantial compliance with MFR. SIZE	$15.14	$181.68
82.	12	Cases	Oregano ground spice, 6/13oz, McCormick, or in substantial compliance with MFR. SIZE	$13.11	$157.32
83.	12	Cases	Oregano Spice, 6/13 oz, McCormick, or in substantial compliance with MFR. **Duplicate for line#82** MODEL	$	$
84.	12	Cases	Pan Coating spray, 6/14oz. Qualify, or in substantial compliance with MFR. SIZE	$18.16	$217.92

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
85.	24	Cases	Pancake Syrup packages, 100/1oz., Monarch, or in substantial compliance with MFR. SIZE	$9.21	$221.04
86.	12	Cases	Parsley Flakes, 11oz., Reid & Murdoch & Co, or in substantial compliance with MFR. SIZE	$9.84	$118.08
87.	12	Cases	Pickle Spear, 75/90, 6/#10 cans, Monarch, or in substantial compliance with MFR. SIZE	$26.29	$315.48
88.	12	Cases	Pie Shell, Graham, 24/6oz., Kraft's Foods, or in substantial compliance with MFR. SIZE	$29.68	$356.16
89.	24	Cases	Pie Shell, 12/2ea./General Mills, or in substantial compliance with MFR. SIZE	$24.14	$579.36
90.	12	Cases	Pineapple juice, 6/#10 cans, Global Imports, or in substantial compliance with MFR.Thirster SIZE 12/46 oz 6752519	$22.37	$268.44
91.	24	Cases	Pineapple Tidbits, 6/#10 cans, International or in substantial compliance with MFR. SIZE	$29.38	$705.12

BID No. **201101039**

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
92.	12	Cases	Poultry seasoning, 10oz., Reid & Murdoch & Co, or in substantial compliance with MFR. SIZE	$10.81	$129.72
93.	12	Cases	Quick Grits, 8/5lb. Quaker, or in substantial compliance with MFR. SIZE	$18.46	$221.52
94.	12	Cases	Ranch Cup Dressing, 100/1.5oz., Monarch or in substantial compliance with MFR. SIZE	$16.22	$194.64
95.	12	Cases	Ranch Dressing Packages, 100/1.5oz., Monarch, or in substantial compliance with MFR. SIZE	$16.22	$194.64
96.	24	Cases	Raisins, 24/6/1.5oz., Packers ,or in substantial compliance with MFR. SIZE	$26.20	$314.40
97.	48	Cases	Raviolis 6/#10 cans, Pasta Presentations, or in substantial compliance with MFR. SIZE	$25.98	$987.24
98.	24	Cases	Refried Beans, 6/#10 cans, El Pasa, or in substantial compliance with MFR. SIZE	$23.44	$562.56

BID No. **201101039**

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
99.	12	Cases	Relish, Bulk, 4/1gallon, Monarch, or in substantial compliance with MFR. SIZE	$22.20	$266.40
100.	12	Cases	Relish, Packets, 200/9 gram, Monarch or in substantial compliance with MFR. SIZE	$9.78	$117.36
101.	12	Cases	Rigatoni Pasta, 20lb., Roseli Products, or in substantial compliance with MFR. SIZE	$19.08	$228.96
102.	12	Cases	Ritz Crackers, 20/4oz., Ritz or in substantial compliance with MFR. SIZE	$18.66	$223.92
103.	24	Cases	Salsa, Mild, 60/2oz., Heinz or in substantial compliance with MFR. SIZE	$19.26	$462.24
104.	24	Cases	Seasoning Salt, 5lb. Monarch, or in substantial compliance with MFR. SIZE	$9.49	$227.76
105.	12	Cases	Self Rising Flour, 25lb bags, Hilltop Hearth Bakeries, or in substantial compliance with MFR. SIZE	$7.71	$92.52

BID No. **201101039** **BIDDER:U.S. Foodservice, Inc.**

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
106.	24	Cases	Sliced Peaches, 6/#10 cans, Monarch, or in substantial compliance with MFR. SIZE	$24.29	$582.96
107.	24	Cases	Sloppy Joe Sauce, 4/107oz., Manwich, or in substantial compliance with MFR. SIZE	$20.95	$502.80
108.	12	Cases	Solid Pumpkin, 6/#10 cans, Monarch, or in substantial compliance with MFR. SIZE	$28.46	$341.52
109.	12	Cases	Soy Sauce, 4/1gal., Kikkoman, or in substantial compliance with MFR. SIZE	$36.58	$438.96
110.	24	Cases	Spaghetti Pasta Noodles, 20lb. Roseli Products, or in substantial compliance with MFR. SIZE	$15.06	$361.44
111.	24	Cases	Spaghetti Sauce, 6/#10 cans, Monarch, or in substantial compliance with MFR. SIZE	$18.43	$442.32
112.	24	Cases	Spring Bottle Water, 24/16.9 oz., Spring Reflections, or in substantial compliance with MFR. SIZE	$4.52	$108.48

BID No. **201101039**

BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
113.	12	Cases	Steak Sauce, 12/10oz., A-1, or in substantial compliance with MFR. SIZE	$39.31	$471.72
114.	24	Cases	Stuffing, herb mix, 6/32oz., Pepperidge Farm, or in substantial compliance with MFR. SIZE	$26.75	$642.00
115.	24	Cases	Stuffing, Herbs, 6/32oz., Pepperidge farm, or in substantial compliance with MFR. **Duplicate of Line#114** SIZE	$	$
116.	12	Cases	Sugar packets, 2000/1/10oz., Rituals Coffee Company, or in substantial compliance with MFR. SIZE	$12.51	$150.12
117.	12	Cases	Sugar, Granular Cane, 50lb., Monarch, or in substantial compliance with MFR. SIZE	$29.37	$352.44
118.	12	Cases	Sugar, Substitute PKT, 2000, Diamond Crystal, or in substantial compliance with MFR. SIZE	$17.68	$212.16
119.	12	Cases	Table Salt, 25lb bags, Monarch, or in substantial compliance with MFR. SIZE	$3.76	$45.12

BID No. **201101039** BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
120.	12	Cases	Taco Mild Sauce, 6/#10 cans, Red Gold, or in substantial compliance with MFR. El Pasado SIZE 200/9GR 8333254	$7.46	$89.52
121.	12	Cases	Taco Seasoning, 6/9 oz. El Pasado, or in substantial compliance with MFR. SIZE	$11.02	$132.24
122.	24	Cases	Taco Shell, 6". 200 ea, Mission, or in substantial compliance with MFR. SIZE	$16.72	$401.28
123.	24	Cases	Tater Sauce, pkts, 200/grams, Reid & Murdoch, or in substantial compliance with MFR. SIZE	$10.62	$254.88
124.	12	Cases	Tomato Ketchup, 6/#10 cans, Monarchs, or in substantial compliance with MFR. SIZE	$18.29	$219.48
125.	12	Cases	Tomato, Diced, 6/#10 cans, Monarch or in substantial compliance with MFR. SIZE	$16.23	$194.76
126.	24	Cases	Tortilla Flour Shell, 24/1dz., El Pasado, or in substantial compliance with MFR. SIZE	$16.27	$390.48

BID No. 201101039 BIDDER:U.S. Foodservice, Inc.

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
127.	24	Cases	Vanilla Extract, 6/32oz. Reid & Murdoch, or in substantial compliance with MFR. SIZE	$3.57	$85.68
128.	12	Cases	Vanilla Icing, 35lb. CSM Bakery Products, or in substantial compliance with MFR. SIZE	$43.07	$516.84
129.	12	Cases	Vanilla Icing Buttercreme, 12/2lb. Rich's or in substantial compliance with MFR. SIZE	$47.80	$573.60
130.	24	Cases	Vanilla RTU Pudding, 6/#10 cans, US Foods, or in substantial compliance with MFR. SIZE	$23.00	$552.00
131.	24	Cases	Vegetable Mix, 6/#10 cans, Harvest Value, or in substantial compliance with MFR. SIZE	$21.11	$506.64
132.	24	Cases	Vegetable Oil, fryer, 35lb., US FOOD, or in substantial compliance with MFR. SIZE	$25.77	$618.48
133.	12	Cases	White Vinegar 4:1 gallon, Reid & Murdoch, or in substantial compliance with MFR. SIZE	$8.76	$105.12

ITEM	QTY.	UOM	DESCRIPTION	UNIT COST	TOTAL EXTENDED COST
134.	24	Cases	Whole Kernel Corn, 6/#10 cans, Monarch, or in substantial compliance with MFR. SIZE	$22.39	$537.36
135.	36	Cases	Yellow Cake Mix, Hilltop Hearth, 6/5lb. bags, or in substantial compliance with MFR. Hospitality SIZE 6/5 lb.	$26.17	$942.12

LUMP SUM GRAND TOTAL ALL ITEMS ABOVE: $ 59,929.44

ANSWER ALL DEVIATION: (*PLEASE LIST THE CORRESPONDING ITEM NUMBER FOR EACH DEVIATION DESCRIPTION*)

Item #52- Monarch, Item #53- Old Mansion, Item #90- Thirster, Item #120- El Pasado- These deviations were made because product was available with same specs but less expensive under a different brand or pack size was not available.

INSTRUCTIONS TO BIDDERS

INTERNET ADDRESS – http://www.pandc.nc.gov/

1. **READ, REVIEW AND COMPLY:** It shall be the bidder's responsibility to read this entire document, review all enclosures and attachments, and comply with all requirements specified herein.

2. **NOTICE TO BIDDERS:** All bids are subject to the provisions of the Instructions to Bidders, special terms and conditions specific to this Invitation for Bids, the specifications, and the North Carolina General Contract Terms and Conditions.
The State objects to and will not evaluate or consider any additional terms and conditions submitted with a bidder response. This applies to any language appearing in or attached to the document as part of the bidder's response. DO NOT ATTACH ANY ADDITIONAL TERMS AND CONDITIONS.
By execution and delivery of this document, the bidder agrees that any additional terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect.

3. **DEFINITIONS:**
   - **BIDDER:** Company, firm, corporation, partnership, individual, etc., submitting a response to an Invitation for Bids.
   - **TERM CONTRACT:** A contract generally intended to cover all normal requirements for a commodity for a specified period of time based on estimated quantities only.
   - **STATEWIDE TERM CONTRACT:** A Term Contract for all agencies, unless exempted by statute, rule, or special term and condition specific to this bid.
   - **AGENCY SPECIFIC TERM CONTRACT:** A Term Contract for a specific agency.
   - **OPEN MARKET CONTRACT:** A contract for the purchase of a commodity not covered by a term contract.

4. **EXECUTION:** Failure to sign under EXECUTION section will render bid invalid.

5. **ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this bid, the order of precedence shall be (1) special terms and conditions specific to this bid, (2) specifications, (3) North Carolina General Contract Terms and Conditions, and (4) Instructions to Bidders.

6. **TIME FOR CONSIDERATION:** Unless otherwise indicated on the first page of this document, bidder's offer shall be valid for 45 days from the date of bid opening. Preference may be given to bids allowing not less than 45 days for consideration and acceptance.

7. **PROMPT PAYMENT DISCOUNTS:** Bidders are urged to compute all discounts into the price offered. If a prompt payment discount is offered, it will not be considered in the award of the contract except as a factor to aid in resolving cases of identical prices.

8. **SPECIFICATIONS:** Any deviation from specifications indicated herein must be clearly pointed out; otherwise, it will be considered that items offered are in strict compliance with these specifications, and bidder will be held responsible therefore. Deviations shall be explained in detail. **The bidder shall not construe this paragraph as inviting deviation or implying that any deviation will be acceptable.**

9. **INFORMATION AND DESCRIPTIVE LITERATURE:** Bidder is to furnish all information requested and in the spaces provided in this document. Further, if required elsewhere in this bid, each bidder must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements will be subject to rejection.

10. **RECYCLING AND SOURCE REDUCTION:** It is the policy of this State to encourage and promote the purchase of products with recycled content to the extent economically practicable, and to purchase items which are reusable, refillable, repairable, more durable, and less toxic to the extent that the purchase or use is practicable and cost-effective.
We also encourage and promote using minimal packaging and the use of recycled/recyclable products in the packaging of commodities purchased. However, no sacrifice in quality of packaging will be acceptable. The company remains responsible for providing packaging that will protect the commodity and contain it for its intended use.
Companies are strongly urged to bring to the attention of purchasers those products or packaging they offer which have recycled content and that are recyclable.

11. **CLARIFICATIONS/INTERPRETATIONS:** Any and all questions regarding this document must be addressed to the purchaser named on the cover sheet of this document. Do not contact the user directly. Any and all revisions to this document shall be made only by written addendum from the Division of Purchase and Contract. The bidder is cautioned that the requirements of this bid can be altered only by written addendum and that verbal communications from whatever source are of no effect.

12. **ACCEPTANCE AND REJECTION:** The State reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the bidder, to accept any item in the bid. If either a unit price or extended price is obviously in error and the other is obviously correct, the incorrect price will be disregarded.

13. **REFERENCES:** The State reserves the right to require a list of users of the exact item offered. The State may contact these users to determine acceptability of the bid. Such information may be considered in the evaluation of the bid.

14. **TAXES:**

- **FEDERAL:** All agencies participating in this contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the contractor will be executed and returned by the using agency.
- **OTHER:** Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.

15. **AWARD OF CONTRACT:** As directed by statute, qualified bids will be evaluated and acceptance may be made of the lowest and best bid most advantageous to the State as determined upon consideration of such factors as: prices offered; the quality of the articles offered; the general reputation and performance capabilities of the bidders; the substantial conformity with the specifications and other conditions set forth in the bid; the suitability of the articles for the intended use; the related services needed; the date or dates of delivery and performance; and such other factors deemed by the State to be pertinent or peculiar to the purchase in question. After the foregoing evaluation, the bids will be reviewed to determine if there are any North Carolina resident bidders that submitted responsive bids and requested the price-matching preference pursuant to Executive Order #50 and G.S. § 143-59. If such bidders are found, the evaluators and/or purchaser will then determine whether any of the North Carolina resident bidders qualify for this preference and, if so, make the contract award pursuant to Paragraph 23 below.

Unless otherwise specified by the State or the bidder, the State reserves the right to accept any item or group of items on a multi-item bid.

In addition, on TERM CONTRACTS, the State reserves the right to make partial, progressive or multiple awards: where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas; other factors deemed by the State to be pertinent or peculiar to the purchase in question.

16. **HISTORICALLY UNDERUTILIZED BUSINESSES:** Pursuant to General Statute 143-48 and Executive Order #150, the State invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled.

17. **CONFIDENTIAL INFORMATION:** As provided by statute and rule, the Division of Purchase and Contract will consider keeping trade secrets which the bidder does not wish disclosed confidential. Each page shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the bidder. Cost information shall not be deemed confidential. In spite of what is labeled as a trade secret, the determination whether it is or not will be determined by North Carolina law.

18. **SAMPLES:** Sample of items, when required, must be furnished as stipulated herein, free of expense, and if not destroyed will, upon request be returned at the bidder's expense. Request for the return of samples must be made within 10 days following date of bid opening. Otherwise the samples will become State property. Each individual sample must be labeled with the bidder's name, bid number, and item number. A sample on which an award is made, will be retained until the contract is completed, and then returned, if requested, as specified above.

19. **PROTEST PROCEDURES:** When a bidder wants to protest a contract awarded by the Secretary of Administration or by an agency over $25,000 resulting from this solicitation, they must submit a written request to the State Purchasing Officer at Purchase and Contract, 1305 Mail Service Center, Raleigh, NC 27699-1305. This request must be received in the Division of Purchase and Contract within thirty (30) consecutive calendar days from the date of the contract award. When a bidder wants to protest a contract awarded by an agency or university resulting from this solicitation that is over $10,000 but less than $25,000 for any agency, or any contract awarded by a university, they must submit a written request to the issuing procurement officer at the address of the issuing agency. This request must be received in that office within thirty (30) consecutive calendar days from the date of the contract award. Protest letters must contain specific reasons and any supporting documentation for the protest. Note: Contract award notices are sent only to those actually awarded contracts, and not to every person or firm responding to this solicitation. Bid status and Award notices are posted on the Internet at http://www.pandc.nc.gov/. All protests will be handled pursuant to the North Carolina Administrative Code, Title 1, Department of Administration, Chapter 5, Purchase and Contract, Section 5B.1519. (See Protest Information at http://www.pandc.nc.gov/protests.pdf for more information.)

If a ground of a protest is based on a challenge to the qualification of a North Carolina resident bidder awarded a contract pursuant to Executive Order #50 (price-matching preference), the State Purchasing Officer or procurement officer may request the North Carolina resident bidder to produce documentation substantiating the North Carolina resident bidder's qualification for the subject preference. The State Purchasing Officer or procurement officer should request the supporting documentation within the 10-day period he or she has to make the decision on whether to deny or grant a protest meeting and the protest meeting should be scheduled after the anticipated receipt of the documents from the North Carolina resident bidder. Pursuant to Paragraph 23 below, the North Carolina resident bidder is required to produce to the State the requested documentation within five (5) business days of the State's request and failure to produce the documents by the end of that time period may result in the cancellation of the contract. Also note that any tax, financial, accounting or banking documents the North Carolina resident bidder submits to the State in connection with the resolution of a protest shall not be disclosed to the protester pursuant to G.S. §§ 132-1.1 and 105-259(b) and the State shall preserve the confidentiality of such documents.

20. **MISCELLANEOUS:** Masculine pronouns shall be read to include feminine pronouns, and the singular of any word or phrase shall be read to include the plural and vice versa.

21. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference law to discourage other states from applying in-state preferences against North Carolina's resident bidders. The "Principal Place of Business" is defined as the principal place from which the trade or business of the bidder is directed or managed.

22. **CONFIDENTIALITY OF BIDS:** In submitting its bid, the bidder agrees not to discuss or otherwise reveal the contents of its bid to any source outside of the using or issuing agency, government or private, until after the award of the contract. All bidders are advised that they are not to have any communications with the using or issuing agency during the evaluation of the bids (i.e., after the public opening of the bids and before the award of the contract), unless the State's purchaser contacts the bidder(s) for purposes of seeking clarification. A bidder shall not: transmit to the issuing and/or using agency any information commenting on the ability or qualifications of any other bidder to provide the advertised good, equipment, commodity; defects, errors and/or omissions in any other bidder's bid and/or prices at any time during the procurement process; and/or engage in any other communication or conduct attempting to influence the evaluation and/or award of the contract that is the subject of this IFB. Bidders not in compliance with this provision may be disqualified, at the option of the State, from the contract award. Only those communications with the using agency or issuing agency authorized by this IFB are permitted.

23. **EXECUTIVE ORDER #50-PRICE-MATCHING PREFERENCE:** Pursuant to North Carolina General Statute § 143-59 (G.S. § 143-59) and Executive Order No. 50 issued by Governor Perdue on February 17, 2010, entitled "Enhanced Purchasing Opportunities for North Carolina Businesses," a price-matching preference may be given to North Carolina resident bidders on contracts for the purchase of goods. This preference will allow a qualified North Carolina resident bidder to match the price of the lowest responsible nonresident bidder, if the North Carolina resident bidder's price is within five percent (5%) or $10,000, whichever is less, of the non-resident bidder's price. G.S. § 143-59(c) (1) defines a "resident bidder" as a "bidder that has paid unemployment taxes or income taxes in this State and whose principal place of business is located in this State. G.S. § 143-59(c)(2) defines a nonresident bidder as a bidder that does not meet the definition in G.S. § 143-59(c)(1). G.S. § 143-59(c)(3) defines a "principal place of business" as the "principal place from which the trade or business of the bidder is directed or managed."

In order to qualify for this preference, a resident bidder must: (1) request the preference; and (2) complete "Resident Bidder's Certification for Price-Matching Preference under Executive Order #50" (hereinafter the "Certification") included at the end of this solicitation. The Certification may not be submitted after the public opening of the bids. By executing the Certification, the bidder agrees to provide any additional information or documentation requested by the State to confirm the above certifications and statements within five (5) business days of request (including tax filings, banking statements, financial and accounting statements reflecting Bidder's payment of the subject taxes and such other information regarding bidder's management or directors of its business or trade of its principal place of business).

The State will evaluate the bids in accordance with the award criteria stated in this IFB to determine the lowest responsible bidder. If the lowest responsible bidder is a North Carolina resident bidder, then there will be no consideration of the price-matching preference. If the lowest responsible bid was submitted by nonresident bidder and there are no North Carolina resident bidders that submitted a bid price that was within 5% or $10,000 of the nonresident bidder's price, then none of the North Carolina resident bidders qualified for the price-matching preference and no review of the Resident Bidder's Certifications is required.

If the lowest responsible bid was submitted by nonresident bidder and there are one or more North Carolina resident bidders that submitted a bid price that was within 5% or $10,000 of the nonresident bidder's price, then the evaluators shall review the Certification(s) of the resident bidder(s) to determine whether the resident bidders have certified compliance with G.S. § 143-59(c)(1), (3) and the information and documentation provided in or with the Certification supports the resident bidder(s) certifications. The evaluators may seek clarification of the certifications and/or information in a resident bidder's Certification and request documentation (including but not limited to income tax or unemployment tax returns, reports and/or filing (annual and/or quarterly); banking statements or financial/accounting statements reflecting bidder's payment of income taxes or unemployment taxes to the State of North Carolina and such other information regarding bidder's management or directors of its business or trade of its principal place of business.). If the resident bidder's Certification for the price-matching is challenged in a bid protest, the resident bidder shall provide the foregoing information and/or documents to the State within five (5) business days of receiving a request from the State for such information and/or documentation. Pursuant to G.S. §§ 132-1.1, 105-259(b) and Paragraph 17 of the Instructions to Bidders, the State is prohibited from making public disclosures of the bidder's tax information and documents (except if one of the 39 exceptions applies in G.S. § 105-259(b)) and the State shall preserve the confidentiality of the tax information and/or documents received in response to a request for clarification (or, as discussed below, to resolve a bid protest challenging resident bidder's qualification for the price-matching preference). In order to further preserve the confidentiality of bidder's tax information and documentation provided the State, the bidder shall comply with Paragraph 17 of the Instructions to Bidders and mark "CONFIDENTIAL" at the top and bottom of each page of the information and documentation. After review of the Certification(s) and any clarification, the evaluators shall include in their recommendation for award a finding that the North Carolina resident bidder(s) was or was not qualified for the price-matching preference.

If more than one North Carolina resident bidder qualified for the price-matching preference, then the evaluators, purchaser, or procurement specialist shall prioritize the qualified North Carolina resident bidders according to their original bid prices, from lowest to highest, so that qualified North Carolina resident bidder that submitted the lowest bid should get the first opportunity to match the bid price of the nonresident lowest responsible bidder. If the lowest responsible and qualified North Carolina resident bidder declines to accept contract award, then the contract should be offered to the next lowest qualified North Carolina resident bidder and to continue in this manner until either a qualified North Carolina resident bidder accepts to contract award or the award is made to nonresident bidder if no qualified North Carolina resident bidder accepted the award. If two responsible North Carolina

resident bidders qualify for the price-matching preference, both had the same bid price, then the evaluators, purchaser or procurement specialist may: (1) consider the information provided in these bidders' Certifications or publicly available information to determine which bidder the contract award would have a greater impact of stimulating or sustaining the North Carolina economy and/or is most likely to create or save jobs (e.g., if the choice is between a resident broker and a resident manufacturer of the subject goods, then the contract should be awarded to the resident manufacturer); (2) consider the unemployment rate in the municipality or county where each bidder's principal place of business is located; or (3) seek clarification from the bidders to ascertain the impact on their respective businesses if offered the award of the contract.

If the resident bidder requests and qualifies for the price-matching preference, the resident bidder will first be offered the contract award and it will have three (3) business days to accept or decline the award based on the lowest responsible nonresident bidder's price

If at any time during or after the procurement process (including but not limited to clarifications and resolution of bid protests), the State determines that: the certifications or information in the Certification were false, substantially inaccurate, materially misleading; or the Bidder failed to provide, within the specified time period, the information and documentation the State requested, then the State may:

(1) Cancel the resident bidder's contract and/or purchase order that was awarded based on the price-matching preference and resident bidder shall be liable for all its cost it incurs as a result of the cancellation and all increased costs of the State may incur by awarding the contract to the next lowest bidder;

(2) Bidder will not be entitled to any price-matching preference in any future State bidding opportunities;

(3) Action may be taken against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties); and/or

(4) Debar Bidder from doing business with the State of North Carolina for a period determined by the State Purchasing Officer and/or Board of Award.

NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS

INTERNET ADDRESS – http://www.pandc.nc.gov/

1. **DEFAULT AND PERFORMANCE BOND:** In case of default by the contractor, the State may procure the articles or services from other sources and hold the contractor responsible for any excess cost occasioned thereby. The State reserves the right to require performance bond or other acceptable alternative guarantees from successful bidder without expense to the State.

   The contractor shall be in default, if its Certification submitted for a price-matching preference under Executive Order #50 and G.S. § 143-59 was false and/or contained materially misleading or inaccurate information, and/or contractor failed to provide information and documentation requested by the State to substantiate contractor's Certification.

   In addition, in the event of default by the Contractor under this contract, the State may immediately cease doing business with the Contractor , immediately terminate for cause all existing contracts the State has with the Contractor, and de-bar the Contractor from doing future business with the State. The State may take action against the contractor under the False Claims Act, G.S. § 1-605 through 1-617, inclusive, for submitting a false Certification for the price-matching preference under Executive Order #50 (including but not limited to treble damages and civil penalties).

   Upon the Contractor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Contractor, the State may immediately terminate, for cause, this contract and all other existing contracts the Contractor has with the State, and de-bar the Contractor from doing future business with the State.

2. **GOVERNMENTAL RESTRICTIONS:** In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the items offered prior to their delivery, it shall be the responsibility of the contractor to notify, in writing, the issuing purchasing office at once, indicating the specific regulation which required such alterations. The State reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the contract.

3. **AVAILABILITY OF FUNDS:** Any and all payments to the contractor are dependent upon and subject to the availability of funds to the agency for the purpose set forth in this agreement.

4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.

   G.S. 143-59.1 bars the Secretary of Administration from entering into contracts with vendors if the vendor or its affiliates meet one of the conditions of G. S. 105-164.8(b) and refuse to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G. S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.

5. **SITUS:** The place of this contract, its situs and forum, shall be North Carolina, where all matters, whether sounding in contract or tort, relating to its validity, construction, interpretation and enforcement shall be determined.

6. **GOVERNING LAWS:** This contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina.

7. **INSPECTION AT CONTRACTOR'S SITE:** The State reserves the right to inspect, at a reasonable time, the equipment/item, plant or other facilities of a prospective contractor prior to contract award, and during the contract term as necessary for the State's determination that such equipment/item, plant or other facilities conform with the specifications/requirements and are adequate and suitable for the proper and effective performance of the contract.

8. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. The using agency is responsible for all payments to the contractor under the contract. Payment by some agencies may be made by procurement card and it shall be accepted by the contractor for payment if the contractor accepts that card (Visa, Mastercard, etc.) from other customers. If payment is made by procurement card, then payment may be processed immediately by the contractor.

9. **AFFIRMATIVE ACTION:** The contractor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities, and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.

10. **CONDITION AND PACKAGING:** Unless otherwise provided by special terms and conditions or specifications, it is understood and agreed that any item offered or shipped has not been sold or used for any purpose and shall be in first class condition. All containers/packaging shall be suitable for handling, storage or shipment.

11. **STANDARDS:** All manufactured items and/or fabricated assemblies subject to operation under pressure, operation by connection to an electric source, or operation involving a connection to a manufactured, natural, or LP gas source shall be constructed and approved in a manner acceptable to the appropriate state inspector which customarily requires the label or re-examination listing

identification marking of the appropriate safety standard organization; such as the American Society of Mechanical Engineers for pressure vessels; the Underwriters Laboratories and /or National Electrical Manufacturers' Association for electrically operated assemblies; or the American Gas Association for gas operated assemblies, where such approvals of listings have been established for the type of device offered and furnished. Further, all items furnished shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.

12. **PATENT:** The contractor shall hold and save the State, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, on account of any copyrighted material, patented or unpatented invention, articles, device or appliance manufactured or used in the performance of this contract, including use by the government.

13. **ADVERTISING:** Contractor agrees not to use the existence of this contract or the name of the State of North Carolina as part of any commercial advertising.

14. ACCESS TO PERSONS AND RECORDS: The State Auditor and the using agency's internal auditors shall have access to persons and records as a result of all contracts or grants entered into by State agencies or political subdivisions in accordance with General Statute 147-64.7 and Session Law 2010-194, Section 21 (i.e., the State Auditors and internal auditors may audit the records of the contractor during the term of the contract to verify accounts and data affecting fees or performance).

15. **ASSIGNMENT:** No assignment of the contractor's obligations nor the contractor's right to receive payment hereunder shall be permitted.
However, upon written request approved by the issuing purchasing authority and solely as a convenience to the contractor, the State may:
~~a. Forward the contractor's payment check directly to any person or entity designated by the contractor, and~~
b. Include any person or entity designated by contractor as a joint payee on the contractor's payment check. In no event shall such approval and action obligate the State to anyone other than the contractor and the contractor shall remain responsible for fulfillment of all contract obligations.

16. **INSURANCE:**
COVERAGE - During the term of the contract, the contractor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the contract. As a minimum, the contractor shall provide and maintain the following coverage and limits:
a. Worker's Compensation - The contractor shall provide and maintain Worker's Compensation Insurance, as required by the laws of North Carolina, as well as employer's liability coverage with minimum limits of $150,000.00, covering all of contractor's employees who are engaged in any work under the contract. If any work is sublet, the contractor shall require the subcontractor to provide the same coverage for any of his employees engaged in any work under the contract.
b. Commercial General Liability - General Liability Coverage on a Comprehensive Broad Form on an occurrence basis in the minimum amount of $500,000.00 Combined Single Limit. (Defense cost shall be in excess of the limit of liability.)
c. Automobile - Automobile Liability Insurance, to include liability coverage, covering all owned, hired and non-owned vehicles, used in connection with the contract. The minimum combined single limit shall be $150,000.00 bodily injury and property damage; $150,000.00 uninsured/under insured motorist; and $1,000.00 medical payment.
REQUIREMENTS: Providing and maintaining adequate insurance coverage is a material obligation of the contractor and is of the essence of this contract. All such insurance shall meet all laws of the State of North Carolina. Such insurance coverage shall be obtained from companies that are authorized to provide such coverage and that are authorized by the Commissioner of Insurance to do business in North Carolina. The contractor shall at all times comply with the terms of such insurance policies, and all requirements of the insurer under any such insurance policies, except as they may conflict with existing North Carolina laws or this contract. The limits of coverage under each insurance policy maintained by the contractor shall not be interpreted as limiting the contractor's liability and obligations under the contract.

17. **YEAR 2000 COMPLIANCE/WARRANTY:** Vendor shall ensure the product(s) and service(s) furnished pursuant to this agreement ("product" shall include, without limitation, any piece of equipment, hardware, firmware, middleware, custom or commercial software, or internal components, subroutines, and interfaces therein) which perform any date and/or time data recognition function, calculation, or sequencing, will support a four digit year format, and will provide accurate date/time data and leap year calculations on and after December 31, 1999, at the same level of functionality for which originally acquired without additional cost to the user. This warranty shall survive termination or expiration of the agreement.

18. **GENERAL INDEMNITY:** The contractor shall hold and save the State, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor in the performance of this contract and that are attributable to the negligence or intentionally tortious acts of the contractor provided that the contractor is notified in writing within 30 days that the State has knowledge of such claims. The contractor represents and warrants that it shall make no claim of any kind or nature against the State's agents who are involved in the delivery or processing of contractor goods to the State. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

19. **ELECTRONIC PROCUREMENT (APPLIES TO ALL CONTRACTS THAT INCLUDE E-PROCUREMENT AND ARE IDENTIFIED AS SUCH IN THE BODY OF THE SOLICITATION DOCUMENT):** Purchasing shall be conducted through the Statewide E-Procurement Service. The State's third party agent shall serve as the Supplier Manager for this E-Procurement Service. The contractor shall register for the Statewide E-Procurement Service within two (2) business days of notification of award in order to

receive an electronic purchase order resulting from award of this contract.

THE SUCCESSFUL BIDDER(S) SHALL PAY A TRANSACTION FEE OF 1.75% (.0175) ON THE TOTAL DOLLAR AMOUNT (EXCLUDING SALES TAXES) OF EACH PURCHASE ORDER ISSUED THROUGH THE STATEWIDE E-PROCUREMENT SERVICE This applies to all purchase orders, regardless of the quantity or dollar amount of the purchase order. The transaction fee shall not be stated or included as a separate item on the invoice. There are no additional fees or charges to the contractor for the services rendered by the Supplier Manager under this contract. Contractor will receive a credit for transaction fees they paid for the purchase of any item(s) if an item(s) is returned through no fault of the contractor. Transaction fees are non-refundable when an item is rejected and returned, or declined, due to the contractor's failure to perform or comply with specifications or requirements of the contract.

Contractor or its Authorized Reseller, as applicable, will be invoiced monthly for the State's transaction fee by the Supplier Manager. The transaction fee shall be based on purchase orders issued for the prior month. Unless Supplier Manager receives written notice from the Contractor identifying with specificity any errors in an invoice within thirty (30) days of the receipt of invoice, such invoice shall be deemed to be correct and Contractor shall have waived its right to later dispute the accuracy and completeness of the invoice. Payment of the transaction fee by the Contractor is due to the account designated by the State within thirty (30) days after receipt of the correct invoice for the transaction fee, which includes payment of all portions of an invoice not in dispute. Within thirty (30) days of the receipt of invoice, contractor may request in writing an extension of the invoice payment due date for that portion of the transaction fee invoice for which payment of the related goods by the governmental purchasing entity has not been received by the Contractor. If payment of the transaction fee is not received by the State within this payment period, it
shall be considered a material breach of contract. The Supplier Manager shall provide, whenever reasonably requested by the contractor in writing (including electronic documents), supporting documentation from the E-Procurement Service that accounts for the amount of the invoice.

The Supplier Manager will capture the order from the State approved user, including the shipping and payment information, and submit the order in accordance with the E-Procurement Service. Subsequently, the Supplier Manager will send those orders to the appropriate contractor on State Contract. The State or State approved user, not the Supplier Manager, shall be responsible for the solicitation, bids received, evaluation of bids received, award of contract, and the payment for goods delivered.

Contractor agrees at all times to maintain the confidentiality of its user name and password for the Statewide E-Procurement Services. If a contractor is a corporation, partnership or other legal entity, then the contractor may authorize its employees to use its password. Contractor shall be responsible for all activity and all charges by such employees. Contractor agrees not to permit a third party to use the Statewide E-Procurement Services through its account. If there is a breach of security through the contractor's account, contractor shall immediately change its password and notify the Supplier Manager of the security breach by e-mail. Contractor shall cooperate with the State and the Supplier Manager to mitigate and correct any security breach.

20. **ELECTRONIC PROCUREMENT (APPLIES ONLY TO STATEWIDE TERM CONTRACTS):** Within ten (10) calendar days of notice, the contractor shall provide supplier information, contract pricing and other product-related information requested by the State or the Supplier Manager. This information shall include such information as contractor name, SKU, brand/manufacturer, product name and a brief description, unit of measure, price, and other similar information properly requested by the State or the Supplier Manager to facilitate purchasing from the contract. This information shall be posted by the contractor in the format provided by the Supplier Manager, or as otherwise provided in a template or format required by the State. No costs or expenses associated with providing this information shall be charged to the State, its agents (including Supplier Manager) or State approved users of the contract. For the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to use, reproduce, transmit, distribute and publicly display this information. In addition, for the purposes of this contract, the contractor warrants that it is authorized and empowered to and hereby grants the State and the Supplier Manager the right and license to reproduce and display contractor's trademarks, service marks, logos, trade dress or other branding designation that identifies the goods available under the contract. The Supplier Manager shall create and maintain, with contractor's timely assistance, web-based placement of contract information, where appropriate, that includes the contract items distributed by the contractor within the appropriate contract categories. The State shall provide any price adjustment/product modification information that it has approved during the course of the contract, to the Supplier Manager immediately upon such change.

If the contractor is not the manufacturer, then it shall be the contractor's responsibility to obtain authorization from the manufacturer to comply with the provisions of this contract, including any appropriate intellectual property rights of the manufacturer. If the contractor is the manufacturer, then the manufacturer shall only authorize dealers, outlets, distributors, value added resellers, etc. (together, "Authorized Resellers") within their network that can comply with the provisions of this contract.

CONTRACTOR IS AND SHALL REMAIN RESPONSIBLE FOR PAYING THE TRANSACTION FEE ON BEHALF OF ITS AUTHORIZED RESELLERS IN THE EVENT THAT THE AUTHORIZED RESELLER(S) DEFAULTS.

21. **CANCELLATION (TERM CONTRACTS ONLY):** All contract obligations shall prevail for at least 90 days after the effective date of the contract. After that period, in addition to the provisions of the paragraph entitled Price Adjustments, for the protection of both parties, this contract may be canceled in whole or in part by either party by giving 30 days prior notice in writing to the other party.

CANCELLATION (EXECUTIVE ORDER #50 CONTRACTS): A contract awarded to a North Carolina resident bidder pursuant to Executive Order #50 and G.S. § 143-59 may be cancelled by the State, if the State determines that the Bidder's certification or information in Resident Bidder's Certification for Price-Matching Preference under Executive Order #50 is false, materially inaccurate or misleading. The contractor shall bear all losses and liability resulting from the cancellation of the contract and/or any purchase order and the contractor shall be liable for any additional costs the State may incur by contracting with another supplier of the goods or equipment.

22. **QUANTITIES (TERM CONTRACTS ONLY):** The award of a term contract neither implies nor guarantees any minimum or maximum purchases thereunder.

23. **PRICE ADJUSTMENTS (TERM CONTRACTS ONLY):** Any price changes, downward or upward, which might be permitted during the contract period must be general, either by reason of market change or on the part of the contractor to other customers.
a. Notification: Must be given to the issuing purchasing authority, in writing, concerning any proposed price adjustments. Such notification shall be accompanied by copy of manufacturer's official notice or other acceptable evidence that the change is general in nature.
b. Decreases: The State shall receive full proportionate benefit immediately at any time during the contract period.
c. Increases: All prices shall be firm against any increase for 180 days from the effective date of the contract. After this period, a request for increase may be submitted with the State reserving the right to accept or reject the increase, or cancel the contract. Such action by the State shall occur not later than 15 days after the receipt by the State of a properly documented request for price increase. Any increases accepted shall become effective not later than 30 days after the expiration of the original 15 days reserved to evaluate the request for increase.
d. Invoices: It is understood and agreed that orders will be shipped at the established contract prices in effect on dates orders are placed. Invoicing at variance with this provision will subject the contract to cancellation. Applicable North Carolina sales tax shall be invoiced as a separate item.

24. **By Executive Order 24,** issued by Governor Perdue, and N.C. G.S.§ 133-32, it is unlawful for any vendor or contractor (i.e. architect, bidder, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Office of the Governor and Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, and Transportation). This prohibition covers those vendors and contractors who:

(1) have a contract with a governmental agency; or
(2) have performed under such a contract within the past year; or
(3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.

Document Revision Date: 10/25/2010