

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**15000 OC**

PAGE 1 of 2	ORDER DATE 06/06/19
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS:  WW GRAINGER INC 9345 J ST OMAHA NE 68127-1206	

AN AWARD HAS BEEN MADE TO THE CONTRACTOR NAMED ABOVE FOR THE FURNISHING OF MATERIALS AND/OR SERVICES AS LISTED BELOW FOR THE PERIOD:

**JULY 01, 2019 THROUGH JUNE 30, 2023**

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE MATERIALS AND/OR SERVICES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR MATERIALS AND/OR SERVICES FROM OTHER SOURCES.

THE STATE RESERVES THE RIGHT TO EXTEND THE PERIOD OF THIS CONTRACT BEYOND THE TERMINATION DATE WHEN MUTUALLY AGREEABLE TO THE CONTRACTOR AND THE STATE OF NEBRASKA.

Original/Bid Document State of Oregon RFP DASPS-2183-17

The State of Nebraska, Materiel Division, State Purchasing Bureau, has signed a Participating Addendum as part of the NASPO ValuePoint for Industrial Supplies with W.W. Grainger, Inc. This includes all items in the W.W. Grainger catalog, and has various discounts depending on the item(s) being purchased. NASPO ValuePoint 8496.

Contract to supply and deliver Industrial Supplies for the period July 1, 2019 through June 30, 2023. This contract may be terminated by either party with thirty (30) days written notice.

Quantities shown are estimates only and are not to be construed to mean firm quantities. The State of Nebraska reserves the right to increase or decrease any quantities shown.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: <http://www.das.state.ne.us/accounting/forms/achenrol.pdf>

(For the File - This RFP and Contract are bid and awarded by the State of Oregon. All backup bids, etc. are retained by the State of Oregon, Department of Administrative Services, Procurement Services).

(For the File: The NASPO ValuePoint/Grainger Price Agreement contract period was effective April 25, 2018. The NASPO ValuePoint/Grainger Participating Addendum for Nebraska became effective on July 1, 2018).

Vendor Contact: Ryan Loughridge  
Cell Phone: 405-409-6210  
Grainger Omaha Branch: 402-339-1800  
Fax: 402-339-2585  
Email: [ryan.loughridge@grainger.com](mailto:ryan.loughridge@grainger.com)

This is the first renewal of the participating addendum as amended. (bs 06-06-19)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES NASPO VALUEPOINT #8496	4,600,000.0000	\$	1.0000

6-6-19  
  
 BUYER  
 MATERIEL ADMINISTRATOR  
 6/6/19

**MASTER AGREEMENT # 8496  
FORM PARTICIPATING ADDENDUM**

NASPO ValuePoint  
**PARTICIPATING ADDENDUM  
AMENDMENT TWO**



**Facilities Maintenance and Repair &  
Operations (MRO) and Industrial Supplies**  
Lead by the State of Oregon

Master Agreement #: 8496 and State of Nebraska Contract # 15000 (OC)

Contractor: **W.W. Grainger, Inc. (Contractor)**

Participating Entity: **State of Nebraska**

**THIS AMENDMENT** is by and between the State of Nebraska ("Participating State/Entity"), and W.W. Grainger, Inc. (Contractor).

**WHEREAS**, the Lead State (Oregon) has a contract with the Contractor identified as No. 8496 to provide Facilities Maintenance and Repair & Operations (MRO) and Industrial Supplies. The State has entered into a Participating Addendum with the Contractor identified as 15000 (OC).

**WHEREAS**, the terms of the Contract specifically state that the contract may be amended per agreement by both parties. The State of Nebraska wishes to continue to take advantage of existing contract.

**NOW, THEREFORE**, it is agreed by the parties to amend the Contract as follows:

Effective July 1, 2019:

1. **CHANGES:** The purpose of this Amendment Two is as follows:
  - a. Revising 3. Term Period.
  3. **TERM PERIOD:** This Amendment is for the renewal of this contract. The new expiration date will be June 30, 2023.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity:	Contractor: W.W Grainger Inc.
Signature: 	Signature: 
Name: Doug Carlson	Name: Ryan Loughridge
Title: Materiel Administrator	Title: Government Sales Manager
Date: 6/6/19	Date: 5/2/19

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator: Shannon Berry  
Telephone: 775-720-3404  
Email: sberry@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.]***

# STATE OF NEBRASKA CONTRACT AMENDMENT

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER  
15000 OC**

PAGE 1 of 1	ORDER DATE 11/07/18
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS:  WW GRAINGER INC 9345 J ST OMAHA NE 68127-1206	

THE CONTRACT PERIOD IS:

**JULY 01, 2018 THROUGH JUNE 30, 2019**

THIS CONTRACT HAS BEEN AMENDED PER THE FOLLOWING INFORMATION:

NO ACTION ON THE PART OF THE CONTRACTOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE MATERIALS AND/OR SERVICES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

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Original/Bid Document State of Oregon RFP DASPS-2183-17

The State of Nebraska, Materiel Division, State Purchasing Bureau, has signed a Participating Addendum as part of the NASPO ValuePoint for Industrial Supplies with W.W. Grainger, Inc. This includes all items in the W.W. Grainger catalog, and has various discounts depending on the item(s) being purchased. NASPO ValuePoint 8496.

Contract to supply and deliver Industrial Supplies for the period July 1, 2018 through June 30, 2019. The contract may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska. This contract may be terminated by either party with thirty (30) days written notice.

Quantities shown are estimates only and are not to be construed to mean firm quantities. The State of Nebraska reserves the right to increase or decrease any quantities shown.

The State may request that payment be made electronically instead of by state warrant. ACH/EFT Enrollment Form can be found at: <http://www.das.state.ne.us/accounting/forms/achenrol.pdf>

(For the File - This RFP and Contract are bid and awarded by the State of Oregon. All backup bids, etc. are retained by the State of Oregon, Department of Administrative Services, Procurement Services).

(For the File: The NASPO ValuePoint/Grainger Price Agreement contract period was effective April 25, 2018. The NASPO ValuePoint/Grainger Participating Addendum for Nebraska became effective on July 1, 2018).

Vendor Contact: Ryan Loughridge  
Cell Phone: 405-409-6210  
Grainger Omaha Branch: 402-339-1800  
Fax: 402-339-2585  
Email: [ryan.loughridge@grainger.com](mailto:ryan.loughridge@grainger.com)

Participating Addendum Amendment One as Attached. (bb 11/07/18)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES NASPO VALUEPOINT #8496	4,600,000.0000	\$	1.0000

11-13-18  
Julie Dabymdeen 11/8/18  
BUYER  
MATERIEL ADMINISTRATOR  
R43500|NISM0001|NISM0001 20150901

**MASTER AGREEMENT # 8496  
FORM PARTICIPATING ADDENDUM**

NASPO ValuePoint  
**PARTICIPATING ADDENDUM  
AMENDMENT ONE**



**Facilities Maintenance and Repair &  
Operations (MRO) and Industrial Supplies**  
Lead by the State of Oregon

Master Agreement #: 8496 and State of Nebraska Contract # 15000 (OC)  
Contractor: **W.W. Grainger, Inc. (Contractor)**  
Participating Entity: **State of Nebraska**

**THIS AMENDMENT** is by and between the State of Nebraska ("Participating State/Entity"), and W.W. Grainger, Inc. (Contractor).

**WHEREAS**, the Lead State (Oregon) has a contract with the Contractor identified as No. 8496 to provide Facilities Maintenance and Repair & Operations (MRO) and Industrial Supplies. The State has entered into a Participating Addendum with the Contractor identified as 15000 (OC).

**WHEREAS**, the terms of the Contract specifically state that the contract may be amended per agreement by both parties. The State of Nebraska wishes to continue to take advantage of existing contract.

**NOW, THEREFORE**, it is agreed by the parties to amend the Contract as follows:

Effective November 1, 2018:

1. **CHANGES:** The purpose of this Amendment One is as follows:
  - a. Adding Section H. Administrative Fee/Rebate
  - b. Adding Section I. Administrative Fee/Rebate Remittance Location

**H. ADMINISTRATIVE FEE /REBATE**

The Contractor agrees to provide a quarterly administrative fee in the form of a check. The fee will be payable to the State for an amount equal to one (1) percent (1%) of the net sales (net of any returns, credits, or adjustments under this Addendum for the period. The Contractor's NASPO ValuePoint pricing to the State shall not be adjusted to offset for the equivalent fee amount. Payments shall be made in accordance with the following schedule:

<b>Period End</b>	<b>Fee Due</b>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

**I. ADMINISTRATIVE FEE /REBATE REMITTANCE LOCATION**

All Administrative Fees/Rebates will be sent to the following address:

State Purchasing Bureau  
c/o Central Finance, Administrative Services  
1526 K Street, Suite 240  
Lincoln, NE 68508

OR

Contact the Nebraska State Treasurer's Office to set up electronic funds transfer.

Below is the address:  
State Capitol, Room 2005  
PO Box 94788  
Lincoln, NE 78509-4788  
Phone (402) 471-2455

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity:	Contractor: W.W. Grainger Inc.
Signature: 	Signature: 
Name: David Zwart	Name: Ryan Loughridge
Title: Materiel Administrator	Title: Government Sales Manager
Date: 11/13/18	Date: 11/1/2018

For questions on executing a participating addendum, please contact:

**NASPO ValuePoint**

Cooperative Development Coordinator:  
Telephone:  
Email:

Shannon Berry  
775-720-3404  
sberry@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.]***

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, Nebraska 68508

Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**15000 OC**

PAGE 1 of 2	ORDER DATE 06/26/18
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VENDOR NUMBER: 1164823	
VENDOR ADDRESS:  WW GRAINGER INC 9345 J ST OMAHA NE 68127-1206	

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Original/Bid Document State of Oregon RFP DASPS-2183-17

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Vendor Contact: Ryan Loughridge  
Cell Phone: 405-409-6210  
Grainger Omaha Branch: 402-339-1800  
Fax: 402-339-2585  
Email: [ryan.loughridge@grainger.com](mailto:ryan.loughridge@grainger.com)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES NASPO VALUEPOINT #8496	4,600,000.0000	\$	1.0000

6-24-18  
Julie Dabydeen 6/26/18  
BUYER  
D. Zuber 28 June 2018  
MATRIEL ADMINISTRATOR

**MASTER AGREEMENT # 8496  
FORM PARTICIPATING ADDENDUM**

NASPO ValuePoint  
**PARTICIPATING ADDENDUM**



**Facilities Maintenance and Repair &  
Operations (MRO) and Industrial Supplies**  
Lead by the State of Oregon

Master Agreement #: 8496 and State of Nebraska Contract # 15000 (OC)  
Contractor: **W.W. Grainger, Inc. (Contractor)**  
Participating Entity: **State of Nebraska**

The following Goods or services are included in this Addendum:

- *All Goods and accessories listed on the Contractor page of the NASPO ValuePoint website. Facilities Maintenance and Repair and Operations (MRO) Industrial Supplies*

**Master Agreement Terms and Conditions:**

1. **Scope:** This addendum covers the **Facilities Maintenance and Repair & Operations and Industrial Supplies** led by the State of Oregon for use by state agencies and other entities located in the Participating State *[or State Entity]* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. **Participation:** This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of Nebraska. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Term Period:** The initial term of the Participating Addendum is July 1, 2018 through June 30, 2019. The Participating Addendum may be renewed for four (4) additional one (1) year periods when mutually agreeable to the vendor and the State of Nebraska.
4. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

**Contractor**

Name: Ryan Loughridge, Governmental Sales Manager  
Address: W.W. Grainger, Inc., Grainger Omaha Branch, 9345 J St., Omaha, NE  
68127  
Cell: 405-409-6210  
Fax: 402-339-2585  
Email: [ryan.loughridge@grainger.com](mailto:ryan.loughridge@grainger.com)

**Participating Entity**

Name: Julie Dabydeen, Buyer  
Address: Department of Administrative Services  
Nebraska State Purchasing Bureau  
1526 K Street, Suite 130, Lincoln, NE 68509-4847  
Telephone: 402-471-1429  
Fax: 402-471-2089  
Email: [julie.dabydeen@nebraska.gov](mailto:julie.dabydeen@nebraska.gov)

**5. Participating Entity Modifications Or Additions To The Master Agreement**

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

6. Lease Agreements: Lease Agreements are not authorized by this Participating Addendum.

7. Subcontractors: All contactors, dealers, and resellers authorized in the State of Nebraska, as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

8. Orders: Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

**State of Nebraska**  
**Standard Terms and Conditions Below**

**IMPORTANT NOTICE:** Pursuant to Neb. Rev. Stat. § 84-602.04, State contracts in effect as of January 1, 2014, and contracts entered into thereafter, must be posted to a public website. The resulting Participating Addendum will be posted to a public website managed by DAS, which can be found at <http://statecontracts.nebraska.gov>.

Contractor may request that proprietary information be excluded from the posting. The Contractor must identify the proprietary information, mark the proprietary information according to state law, and submit the proprietary information in a separate container or envelope marked conspicuously in black ink with the words "PROPRIETARY INFORMATION". The Contractor must submit a detailed written document showing that the release of the proprietary information would give a business advantage to named business competitor(s) and explain how the named business competitor(s) will gain an actual business advantage by disclosure of information. The mere assertion that information is proprietary or that a speculative business advantage might be gained is not sufficient. (See Attorney General Opinion No. 92068, April 27, 1992) THE CONTRACTOR MAY NOT ASSERT THAT THE ENTIRE PARTICIPATING ADDENDUM IS PROPRIETARY. COSTS WILL NOT BE CONSIDERED PROPRIETARY AND ARE A PUBLIC RECORD IN THE STATE OF NEBRASKA. The State will then determine, in its discretion, if the interests served by nondisclosure outweighs any public purpose served by disclosure. (See Neb. Rev. Stat. § 84-712.05(3)). The Contractor will be notified of the agency's decision. Absent a State determination that information is proprietary, the State will consider all information a public record subject to release regardless of any assertion that the information is proprietary.

If the agency determines it is required to release proprietary information, the Contractor will be informed. It will be the Contractor's responsibility to defend the Contractor's asserted interest in non-disclosure.

To facilitate such public postings, with the exception of proprietary information, the State of Nebraska reserves a royalty-free, nonexclusive, and irrevocable right to copy, reproduce, publish, post to a website, authorize others to use the documents, or otherwise use the Participating Addendum or other documents received with regard to the Participating Addendum. Contractor specifically waives any copyright or other protection the Participating Addendum or other documents may have. This reservation and waiver is a prerequisite for entering into this Participating Addendum.

Contractor agrees not to sue, file a claim, or make a demand of any kind, and will indemnify and hold harmless the State and its employees, volunteers, agents, and its elected and appointed officials from and against any and all claims, liens, demands, damages, liability, actions, causes of action, losses, judgments, costs, and expenses of every nature, including investigation costs and expenses, settlement costs, and attorney fees and expenses, sustained or asserted against the State, arising out of, resulting from, or attributable to the posting of the Participating Addendum or documents.

## **I. TERMS AND CONDITIONS**

**Suppliers should complete Section I through III.** Supplier is expected to read the Terms and Conditions and must initial either accept, reject, or reject and provide alternative language for each clause. The Supplier should also provide alternate language using "Track Changes". Upon request an electronic copy of the bid with "Track Changes" must be submitted in an editable Word format. The State reserves the right to negotiate rejected or proposed alternative language. If the State and Supplier fail to agree on the final Terms and Conditions, the State reserves the right to withdraw the offer.

The Supplier should submit any license, user agreement, service level agreement, or similar documents that the Supplier wants incorporated in the Participating Addendum. The Supplier must submit a copy of these documents in an editable Word format. The State will not consider incorporation of any document not submitted prior to signing the Participating Addendum. These documents shall be subject to negotiation and will be incorporated as addendums if agreed to by the Parties.

If a conflict or ambiguity arises after the addendums have been negotiated and agreed to, the addendums shall be interpreted as follows:

1. If only one (1) Party's document has a particular clause then that clause shall control;
2. If both Party's documents have a similar clause, but the clauses do not conflict, the clauses shall be read together;
3. If both Party's documents have a similar clause, but the clauses conflict, the State's clause shall control.

### **A. GENERAL**

The Participating Addendum shall incorporate the following documents:

1. Participating Addendum
2. Master Agreement
3. Amendments/Addendums.
4. The Solicitation
5. Contractor's Response to the Solicitation

These documents constitute the entirety of the Participating Addendum.

Unless otherwise specifically stated in a future Participating Addendum amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number one (1) receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) Amendment to the executed Participating Addendum or Master Agreement with the most recent dated amendment having the highest priority, 2) executed Participating Addendum and any attached Addenda, 3) executed Master Agreement and any Addendum, 4) Statement of Work, 5) the Solicitation, and 6) Contractor's Response to the Solicitation.

Any ambiguity or conflict in the Participating Addendum discovered after execution, not otherwise addressed herein, shall be resolved in accordance with the rules of Participating Addendum interpretation as established in the State of Nebraska.

### **B. BEGINNING OF WORK**

The Contractor shall not commence any billable work until a valid Participating Addendum has been fully executed by the State and the successful Contractor. The Contractor will be notified in writing when work may begin.

### **C. AMENDMENT**

This Participating Addendum may be amended in writing, within scope, upon the agreement of both parties.

### **D. CHANGE ORDERS OR SUBSTITUTIONS**

The State and the Contractor, upon the written agreement, may make changes to the Participating Addendum within the general scope of the ITB. Changes may involve specifications, the quantity of work, or such other items as the State may find necessary or desirable. Corrections of any deliverable, service, or work required pursuant to the Participating Addendum shall not be deemed a change. The Contractor may not claim forfeiture of the Participating Addendum by reasons of such changes.

The State or Contractor may prepare a written description of the work required due to the change and the Contractor shall prepare an itemized cost sheet for the change. Changes in work and the amount of compensation to be paid to the Contractor shall be determined in accordance with applicable unit prices if any, a pro-rated value, or through negotiations. The State shall not incur a price increase for changes that should have been included in

the Contractor's bid, were foreseeable, or result from difficulties with or failure of the Contractor's bid or performance.

No change shall be implemented by the Contractor until approved by the State, and the Participating Addendum is amended to reflect the change and associated costs, if any. If there is a dispute regarding the cost, but both parties agree that immediate implementation is necessary, the change may be implemented, and cost negotiations may continue with both Parties retaining all remedies under the Participating Addendum and law.

In the event any product is discontinued or replaced upon mutual consent during the contract period, the State reserves the right to amend this contract to include the alternate product at the same price.

**\*\*\*Supplier will not substitute any item that has been awarded without prior written approval of SPB\*\*\***

**E. BREACH**

Either Party may terminate the Participating Addendum, in whole or in part, if the other Party breaches its duty to perform its obligations under the Participating Addendum in a timely and proper manner. Termination requires written notice of default and a thirty (30) calendar day (or longer at the non-breaching Party's discretion considering the gravity and nature of the default) cure period. Said notice shall be delivered by Certified Mail, Return Receipt Requested, or in person with proof of delivery. Allowing time to cure a failure or breach of Participating Addendum does not waive the right to immediately terminate the Participating Addendum for the same or different Participating Addendum breach which may occur at a different time.

In case of breach by the Contractor, the State may, without unreasonable delay, make a good faith effort to make a reasonable purchase or Participating Addendum to purchased goods in substitution of those due from the contractor. The State may recover from the Contractor as damages the difference between the costs of covering the breach. Notwithstanding any clause to the contrary, the State may also recover the Participating Addendum price together with any incidental or consequential damages defined in UCC Section 2-715, but less expenses saved in consequence of Contractor's breach.

The State's failure to make payment shall not be a breach, and the Contractor shall retain all available statutory remedies. (See Indemnity - Self-Insurance and Payment)

**F. SEVERABILITY**

If any term or condition of the Participating Addendum is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Participating Addendum did not contain the provision held to be invalid or illegal.

**G. INDEMNIFICATION**

**1. PERSONNEL**

The Contractor shall, at its expense, indemnify and hold harmless the indemnified parties from and against any claim with respect to withholding taxes, worker's compensation, employee benefits, or any other claim, demand, liability, damage, or loss of any nature relating to any of the personnel, including subcontractor's and their employees, provided by the Contractor.

**2. SELF-INSURANCE (Statutory)**

The State is self-insured for any loss and purchases excess insurance coverage pursuant to Neb. Rev. Stat. § 81-8,239.01 (Reissue 2008). If there is a presumed loss under the provisions of this agreement, Contractor may file a claim with the Office of Risk Management pursuant to Neb. Rev. Stat. §§ 81-8,829 through 81-8,306 for review by the State Claims Board. The State retains all rights and immunities under the State Miscellaneous (Section 81-8,294), Tort (Section 81-8,209), and Contract Claim Acts (Section 81-8,302), as outlined in Neb. Rev. Stat. § 81-8,209 et seq. and under any other provisions of law and accepts liability under this agreement to the extent provided by law.

**3. ALL REMEDIES AT LAW**

The Parties acknowledge that Attorney General for the State is required by statute to represent the legal interests of the State, and that any provision of this indemnity clause is subject to the statutory authority of the Attorney General.

**H. ATTORNEY'S FEES**

In the event of any litigation, appeal, or other legal action to enforce any provision of the Participating Addendum, the Parties agree to pay all expenses of such action, as permitted by law and if order by the court, including attorney's fees and costs, if the other party prevails.

**I. CONTRACTING WITH OTHER POLITICAL SUB-DIVISIONS OF THE STATE OR ANOTHER STATE**

The Contractor may, but shall not be required to, allow agencies, as defined in Neb. Rev. Stat. § 81-145, to use this Participating Addendum. The terms and conditions, including price, of the Participating Addendum may not be amended. The State shall not be contractually obligated or liable for any Participating Addendum entered into pursuant to this clause.

The Contractor may, but shall not be required to, allow other states, agencies or divisions of other states, or political subdivisions of other states to use this Participating Addendum. The terms and conditions, including price, of this Participating Addendum shall apply to any such Participating Addendum, but may be amended upon mutual consent of the Parties. The State of Nebraska shall not be contractually or otherwise obligated or liable under any Participating Addendum entered into pursuant to this clause. The State shall be notified if a Participating Addendum is executed based upon this Participating Addendum.

**J. EARLY TERMINATION**

The Participating Addendum may be terminated as follows:

1. The State and the Contractor, by mutual written agreement, may terminate the Participating Addendum at any time.
2. The State may terminate the Participating Addendum immediately for the following reasons:
  - a. if directed to do so by statute;
  - b. Contractor has made an assignment for the benefit of creditors, has admitted in writing its inability to pay debts as they mature, or has ceased operating in the normal course of business;
  - c. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the Participating Addendum by its Contractor, its employees, officers, directors, or shareholders;
  - d. Contractor intentionally discloses confidential information;
  - e. Contractor has or announces it will discontinue support of the deliverable; and,
  - f. In the event funding is no longer available.

**K. PARTICIPATING ADDENDUM CLOSEOUT**

Upon termination of the Participating Addendum for any reason the Contractor shall within thirty (30) days, unless stated otherwise herein:

1. Transfer all completed or partially completed deliverables to the State;
2. Transfer ownership and title to all completed or partially completed deliverables to the State;
3. Return to the State all information and data, unless the Contractor is permitted to keep the information or data by Participating Addendum or rule of law. Contractor may retain one copy of any information or data as required to comply with applicable work product documentation standards or as are automatically retained in the course of Contractor's routine back up procedures;
4. Cooperate with any successor contractor, person or entity in the assumption of any or all of the obligations of this Participating Addendum;
5. Cooperate with any successor contractor, person or entity with the transfer of information or data related to this Participating Addendum;
6. Return or vacate any state owned real or personal property.

Nothing in this Section should be construed to require the Contractor to surrender intellectual property, real or person property, or information or data owned by the Contractor for which the State has no legal claim.

## II. CONTRACTOR DUTIES

### A. INDEPENDENT CONTRACTOR / OBLIGATIONS

The Contractor is solely responsible for fulfilling the Participating Addendum. The Contractor or the Contractor's representative shall be the sole point of contact regarding all contractual matters.

The Contractor shall secure, at its own expense, all personnel required to perform the services under the Participating Addendum. The personnel the Contractor uses to fulfill the Participating Addendum shall have no contractual or other legal relationship with the State; they shall not be considered employees of the State and shall not be entitled to any compensation, rights or benefits from the State, including but not limited to, tenure rights, medical and hospital care, sick and vacation leave, severance pay, or retirement benefits.

By-name personnel commitments made in the Contractor's bid shall not be changed without the prior written approval of the State. Replacement of these personnel, if approved by the State, shall be with personnel of equal or greater ability and qualifications.

The Contractor warrants that all persons assigned to the project shall be employees of the Contractor or a Subcontractor, and shall be fully qualified to perform the work required herein. Personnel employed by the Contractor or a subcontractor to fulfill the terms of the Participating Addendum shall remain under the sole direction and control of the Contractor or the subcontractor respectively.

With respect to its employees, the Contractor agrees to be solely responsible for the following:

1. Any and all pay, benefits, and employment taxes and/or other payroll withholding;
2. Any and all vehicles used by the Contractor's employees, including all insurance required by state law;
3. Damages incurred by Contractor's employees within the scope of their duties under the Participating Addendum;
4. Maintaining Workers' Compensation and health insurance that complies with state and federal law and submitting any reports on such insurance to the extent required by governing law;
5. Determining the hours to be worked and the duties to be performed by the Contractor's employees; and,
6. All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination alleged against the Contractor, its officers, agents, or subcontractors or subcontractor's employees).

If the Contractor intends to utilize any subcontractor, the Subcontractor's level of effort, tasks, and time allocation must be clearly defined in the Contractor's bid. The Contractor shall agree that it will not utilize any Subcontractors not specifically included in its bid in the performance of the Participating Addendum without the prior written authorization of the State.

The State reserves the right to require the Contractor to reassign or remove from the project any Contractor or Subcontractor employee.

Contractor shall insure that the terms and conditions contained in any Participating Addendum with a sub-contractor does not conflict with the terms and conditions of this Participating Addendum.

The Contractor shall include a similar provision, for the protection of the State, in the Participating Addendum with any Subcontractor engaged to perform work on this Participating Addendum.

### B. SECRETARY OF STATE/TAX COMMISSIONER REGISTRATION REQUIREMENTS (Statutory)

All Suppliers must be authorized to transact business in the State and comply with all Nebraska Secretary of State Registration requirements. The Supplier who is the recipient of an Intent to Award will be required to certify that it has complied and produce a true and correct copy of its current (within ninety (90) calendar days of the intent to award) Certificate or Letter of Good Standing, or in the case of a sole proprietorship, provide written documentation of sole proprietorship and the United States Citizenship Attestation Form, available on the DAS website at: <http://das.nebraska.gov/materiel/purchasing.html>. This must be accomplished prior to execution of the Participating Addendum.

### C. EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of employees physically performing work within the State. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent

federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of an employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the DAS website at <http://das.nebraska.gov/materiel/purchasing.html>

The completed United States Attestation Form should be submitted with the ITB response.

2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the U.S. Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the Participating Addendum terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. § 4-108.

**D. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT / NONDISCRIMINATION (Statutory)**

The Contractor shall comply with all applicable local, state, and federal statutes and regulations regarding civil rights laws and equal opportunity employment. The Nebraska Fair Employment Practice Act prohibits Contractors of the State, and their Subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions, compensation, or privileges of employment because of race, color, religion, sex, disability, marital status, or national origin (Neb. Rev. Stat. §§ 48-1101 through 48-1125). The Contractor guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of Participating Addendum. The Contractor shall insert a similar provision in all Subcontracts for goods or services to be covered by any Participating Addendum resulting from this ITB.

**E. COOPERATION WITH OTHER CONTRACTORS**

Contractor may be required to work with or in close proximity to other contractors or individuals that may be working on the same or different projects. The Contractor shall agree to cooperate with such other contractors or individuals, and shall not commit or permit any act which may interfere with the performance of work by any other contractor or individual. Contractor is not required to compromise Contractor's intellectual property or proprietary information unless expressly required to do so by this Participating Addendum.

**F. NOTICE OF POTENTIAL CONTRACTOR BREACH**

If Contractor breaches the contract or anticipates breaching the contract the Contractor shall immediately give written notice to the State. The notice shall explain the breach or potential breach, and may include a request for a waiver of the breach if so desired. The State may, at its discretion, temporarily or permanently waive the breach. By granting a temporary waiver, the State does not forfeit any rights or remedies to which the State is entitled by law or equity, or pursuant to the provisions of the contract. Failure to give immediate notice, however, may be grounds for denial of any request for a waiver of a breach.

**G. STATE PROPERTY**

The Contractor shall be responsible for the proper care and custody of any State-owned property which is furnished for the Contractor's use during the performance of the contract. The Contractor shall reimburse the State for any loss or damage of such property; normal wear and tear is expected.

**H. SITE RULES AND REGULATIONS**

The Contractor shall use its best efforts to ensure that its employees, agents, and Subcontractors comply with site rules and regulations while on State premises. If the Contractor must perform on-site work outside of the daily operational hours set forth by the State, it must make arrangements with the State to ensure access to the facility and the equipment has been arranged. No additional payment will be made by the State on the basis of lack of access, unless the State fails to provide access as agreed to in writing between the State and the Contractor.

**I. NEBRASKA TECHNOLOGY ACCESS STANDARDS (Statutory)**

Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or goods provided under the contract are in compliance or will comply with the applicable standards to the greatest degree possible. In the event such standards change during the

Contractor's performance, the State may create an amendment to the contract to request the contract comply with the changed standard at a cost mutually acceptable to the parties.

**J. DISASTER RECOVERY/BACK UP PLAN**

The Contractor shall have a disaster recovery and back-up plan, of which a copy should be provided upon request to the State, which includes, but is not limited to equipment, personnel, facilities, and transportation, in order to continue delivery of goods as specified under the specifications in the contract in the event of a disaster.

**K. DRUG POLICY**

Contractor certifies it maintains a drug free work place environment to ensure worker safety and workplace integrity. Contractor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.

### III. PAYMENT

#### A. PROHIBITION AGAINST ADVANCE PAYMENT

Neb. Rev. Stat. §§ 73-501 through 73-509 says "payments shall be made when contractual deliverables are received or in accordance with specific contractual terms and conditions." Standard term is to pay after deliverables and that any alteration of that standard term should be carefully considered and used only when absolutely necessary to accommodate certain critical exceptions, i.e. insurance premiums, etc. that must be paid in advance.)

Neb. Rev. Stat. §§ 73-501 through 73-509 states, ". . . payments shall not be made until contractual deliverable(s) are received and accepted by the State".

#### B. TAXES

The State is not required to pay taxes and assumes no such liability as a result of this solicitation. The Contractor may request a copy of the Nebraska Department of Revenue, Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption, Form 13 for their records. Any property tax payable on the Contractor's equipment which may be installed in a state-owned facility is the responsibility of the Contractor.

#### C. INVOICES

Invoices for payments must be submitted by the Contractor to the agency requesting the services with sufficient detail to support payment. The terms and conditions included in the Contractor's invoice shall be deemed to be solely for the convenience of the parties. No terms or conditions of any such invoice shall be binding upon the State, and no action by the State, including without limitation the payment of any such invoice in whole or in part, shall be construed as binding or estopping the State with respect to any such term or condition, unless the invoice term or condition has been previously agreed to by the State as an amendment to the contract.

#### D. PAYMENT (Statutory)

State will render payment to Contractor when the terms and conditions of the contract and specifications have been satisfactorily completed on the part of the Contractor as solely determined by the State. (Neb. Rev. Stat. Section § 73-506(1)). The State may require the Contractor to accept payment by electronic means such as ACH deposit. In no event shall the State be responsible or liable to pay for any services provided by the Contractor prior to the Effective Date of the contract, and the Contractor hereby waives any claim or cause of action for any such services.

#### E. LATE PAYMENT (Statutory)

The Contractor may charge the responsible agency interest for late payment in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §§ 81-2401 through 81-2408).

#### F. SUBJECT TO FUNDING / FUNDING OUT CLAUSE FOR LOSS OF APPROPRIATIONS (Statutory)

The State's obligation to pay amounts due on the Contract for a fiscal years following the current fiscal year is contingent upon legislative appropriation of funds. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal year(s) for which such funds are not appropriated. The State will give the Contractor written notice thirty (30) calendar days prior to the effective date of termination. All obligations of the State to make payments after the termination date will cease. The Contractor shall be entitled to receive just and equitable compensation for any authorized work which has been satisfactorily completed as of the termination date. In no event shall the Contractor be paid for a loss of anticipated profit.

#### G. REPORTS

The Contractor agrees to provide a quarterly utilization report, reflecting new sales to the State during the associated quarterly period, less any credits. The report will be provided in secure electronic format and/or submitted electronically to the State as listed below. The reports shall contain at a minimum the following information pertaining to State of Nebraska agencies, boards, commissions, and political subdivisions utilization:

Ordering Entity  
Purchase order number;  
Description;  
Quantity; and  
Price.

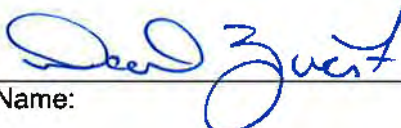
These reports will be provided in Excel format and sent via email on a quarterly basis as follows:

<b>Period End</b>	<b>Report Due</b>
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

Reports shall be sent to: [as.materielpurchasing@nebraska.gov](mailto:as.materielpurchasing@nebraska.gov); to the attention of the Participating Entity's primary contact. Please include the contract number, 15000 OC in the subject line of the e-mail.

Should W.W. Grainger, Inc. consider any portion of any requested reports proprietary in nature, W.W. Grainger, Inc. shall identify such upon submission of said reports.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity:	Contractor: W.W. Grainger Inc.
Signature: 	Signature: 
Name: David Zwart	Name: Ryan Loughridge
Title: Materiel Administrator	Title: Government Sales Manager
Date: 28 June 2016	Date: 6/25/2018

For questions on executing a participating addendum, please contact:

**NASPO ValuePoint**

Cooperative Development Coordinator: Shannon Berry  
 Telephone: 775-720-3404  
 Email: sberry@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to [PA@naspovaluepoint.org](mailto:PA@naspovaluepoint.org) to support documentation of participation and posting in appropriate data bases.]***