

PARTICIPATING ADDENDUM
NASPO VALUEPOINT
Facilities MRO and Industrial Supplies

Administered by the State of Kentucky
(hereinafter "Lead State")

Master Agreement No: 758 2500000413

W. W. Grainger
(hereinafter "Contractor")

and
State of Arkansas
(hereinafter "Participating State")
Contract No: 4600055644

A. SCOPE:

This Participating Addendum (PA) covers the NASPO ValuePoint. contract for Facilities MRO and Industrial Supplies administered by the Lead Entity for use by Participating State agencies and other entities located in the State of Arkansas as authorized by Arkansas Procurement Law to utilize cooperative contracts.

B. PARTICIPATION:

All state agencies, K-12 educational institutions, and local public procurement units (cities, counties, municipalities) of the Participating State ("Eligible Purchasers"), are authorized to purchase products and services under the terms and conditions of this PA.

C. TERM OF THIS PA:

The initial term of this PA will be effective upon signature by authorized representatives of the parties on January 1, 2025, whichever occurs later, and will expire August 31, 2026.

Upon mutual agreement by the parties, through a written amendment to this PA, the PA may be renewed for additional terms, not to exceed a total aggregate contract term of seven (7) consecutive years.

D. INDIVIDUAL CUSTOMER:

Each Eligible Purchaser that purchases from the Master Agreement ("Purchasing Entity") shall be treated as if they were individual customers. Except to the extent modified by the PA, each Purchasing Entity will be responsible to follow the terms and conditions of the Master Agreement; and they shall have the same rights and responsibilities for their purchases as the Participating State has in the Master Agreement and this PA. Each Purchasing Entity shall be responsible for their own charges, fees, and liabilities. Each Purchasing Entity shall have the same rights to any indemnity or to recover any costs allowed in the contract for their purchases. The Contractor shall apply the charges to each Purchasing Entity individually.

E. ORDER OF PRECEDENCE:

1. Participating State's PA; the Participating State's PA does not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the terms of the Lead State's Master Agreement.
2. Lead State's Master Agreement (includes negotiated terms & conditions)
3. The solicitation including all addenda; and
4. The Contractor's response to the solicitation.

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed

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above. Contractor terms and conditions that apply to the Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an exhibit or attachment. Notwithstanding the foregoing, ordering documents (purchase orders) may contain transaction-specific terms and each ordering document that is accepted by the Contractor shall become a part of this PA as to the products and services listed on the ordering document only. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the solicitation, or terms listed or references on the Contractor's website, in the Contractor's quotation/sales order, or in similar documents subsequently provided by the Contractor (unless such terms are referenced in the Master Agreement).

F. VENDOR REGISTRATION:

To receive payment, the Contractor must register online at ark.org/vendor/index.html.

G. PAYMENTS AND INVOICE PROVISIONS:

Payment will be made in accordance with applicable State of Arkansas accounting procedures upon acceptance by the Purchasing Entity. The Participating State may not be invoiced in advance of delivery and acceptance of any products or services. Payment will be made only after the Contractor has successfully satisfied the Purchasing Entity as to the commodities and/or services purchased, rented, or leased. Contractors should invoice the Purchasing Entity by an itemized list of charges. The purchase order number, contract number, or both, as applicable, should be referenced on each invoice.

Payments will be submitted to the Contractor at the address shown on the invoice. Payments should be tendered to the Contractor within thirty (30) days of the date of invoice. After the sixtieth (60) day from the date of invoice, unless mutually agreed to, interest may be paid on the unpaid balance due to the Contractor at the rate of one half (1/2) of one (1) percent per month in accordance with Arkansas Code Annotated §19-11-224. The Purchasing Entity will make a good-faith effort to pay within thirty (30) days after the date of invoice. The Participating State shall have the right to dispute billed commodities or services and withhold payment for those commodities or services that are in dispute. Interest shall not be charged on disputed amounts while in dispute.

The Contractor shall ensure that all invoices are sent directly to the Purchasing Entity that purchased products from them.

All invoices should be forwarded to:

Purchasing Entity Name
Attention: Accounts Payable
Address
City, Arkansas Zip Code

H. ELECTRONIC PAYMENTS

The Contractor has taken or shall take all actions necessary to receive payment from the State through Electronic Funds Transfer (EFT) for the services and/or commodities to be provided under a resulting contract. This includes, without limitation, the following actions:

1. Signing documents authorizing the State to make EFT payments into a bank account designated by the Contractor.
2. Providing all information requested by the State to set up EFT payments, including either a voided check or a letter from their financial institution that contains the following information:
 - a. Account holder's name

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- b. Account number
 - c. Routing number
 - d. Financial institution official's contact information and signature
3. In the event the EFT information changes, the Contractor shall be responsible for providing the updated information to the State. No interest or late payment penalty will apply if payment is delayed because of the Contractor's failure to initially provide or update information necessary for the State to make EFT payment.

I. PURCHASE ORDER INSTRUCTIONS:

All Purchasing Entities issuing valid purchase orders within the jurisdiction of this PA should include the following:

- 1. NASPO VALUEPOINT Agreement 758 2500000413
- 2. Participating State contract number **4600055644**
- 3. Purchasing Entity name, address, contact, email, and phone number
- 4. Applicable approvals
- 5. Orders shall be made out to the Contractor or reseller

The Purchasing Entities shall not be required, by the Contractor or its subcontractors, to sign any additional terms and conditions when utilizing this PA.

J. CONVENIENCE FEE:

- 1. Convenience Fee

Contractor shall remit a convenience fee in the amount of one percent (1%) of all Contract Sales made to State, State Departments, and to local entities as defined in Arkansas Code Annotated § 19-11-206 (i.e. local governments, cities, counties, school districts, water districts, and other participants, collectively "State"). The convenience fee is based on Contractor invoice date and is effective upon the date of execution of this PA. Contract Sales is defined as gross sale amounts less credits, taxes, regulatory fees, and separately stated shipping charges not included in the unit prices. The State, at its sole discretion, may expand the applicability of this fee after providing notice to Contractors.

Unit prices are inclusive of the convenience fee and Contractor is not to charge the fee directly to the State in the form of a separate line item. Contracts shall not have separate or different prices for State Agency customers and local entities as defined in Arkansas Code Annotated § 19-11-206 participants.

- 2. Quarterly Reporting and Fee Remittance

Contractor shall submit a Sales Report documenting all contract sales, made to State and such submission, including any supplemental information submitted, is deemed public record.

The Sales Report shall be submitted, and the related convenience fee shall be remitted no later than thirty (30) calendar days after the end of each calendar quarter. The calendar quarters will end March 31, June 30, September 30, and December 31. The Sales Report must contain the following information:

- a. Complete and accurate details of all sales, credits, returns, refunds, and the like for the reporting quarter

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- b. Purchasing entity
- c. Total of Convenience Fee amount due
- d. Such other information as the State may reasonably request
- e. If no Sales were made to State during the reporting quarter, then a report shall be submitted showing zero sales and zero convenience fees due.

3. Payment of Convenience Fee

The Contractor shall timely remit Convenience Fee via Automated Clearing House (ACH) transactions, unless otherwise directed by State, to the bank account directed by the State. Failure to remit convenience fees timely and accurately in accordance with State requirements may result in Contractor's goods and services being made ineligible for purchase by State or any other recourse available, including contract cancellation, or as further provided for by law.

4. Retention and Inspection of Records

The Contractor shall keep records of Sales to State in sufficient detail to enable the State to determine the Convenience Fee payable by the Contractor. State may examine and audit, at its own expense, Contractor's sales records and Sales Reports for completeness and accuracy. In the event that such examination reveals underpayment of the Convenience Fee, the Contractor shall immediately pay to the State the amount of deficiency, once validated upon a mutually agreeable source. If the examination reveals an underpayment of 5% or more, then the Contractor shall reimburse the State for the cost of the audit.

K. RECORD RETENTION:

Financial and accounting records relevant to State of Arkansas transactions under this PA shall be subject to examination by appropriate Arkansas government authorities for a period of five (5) years from the expiration date and final payment under this PA or extension thereof, provided, however, that such government authorities will provide thirty (30) days written notice to the Contractor of its intent to conduct such examination contemplated by this section.

L. GOVERNING LAW:

The laws of the State of Arkansas shall govern this PA. Nothing under this PA or the Master Agreement shall be deemed or construed as a waiver of the State's right of sovereign immunity.

M. VENUE AND JURISDICTION:

Venue for any claim, dispute, or action concerning an order placed against the contract shall be Pulaski County, Arkansas. Any claims against the State, whether sounding in tort or in contract, shall be brought before the Arkansas State Claims Commission as provided by Arkansas law, and shall be governed accordingly.

N. TAXES:

Personal Property tax will not be charged to Arkansas state agencies.

O. TRAVEL EXPENSES:

Expenses for travel shall not be reimbursed unless specifically permitted under the duties of the Contractor. All travel must be approved in advance by the State. Approved expenditures made by the contractor for travel will be reimbursed at the current rate paid by the State and in accordance with Arkansas Travel Guidelines and Procedures.

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P. CANCELLATION:

1. **For Convenience.** The State may cancel this PA for any reason by giving the Contractor written notice of such cancellation sixty (60) days prior to the date of cancellation.
2. **For Cause.** The State may cancel this PA for cause when the Contractor fails to perform its obligations under it by giving the Contractor written notice of such cancellation at least thirty (30) days prior to the date of proposed cancellation. In any written notice of cancellation for cause, the State will advise the Contractor in writing of the reasons why the State is considering cancelling the PA and will provide the Contractor with an opportunity to avoid cancellation for cause by curing any deficiencies identified in the notice of cancellation for cause prior to the date of proposed cancellation. The parties may endeavor to agree to reasonable modifications in the PA to accommodate the causes of the cancellation for cause and avoid the cancellation, to the extent permitted by law, and at the discretion of each party individually.
3. If upon cancellation the Contractor has provided services which the State has accepted, and there are no funds legally available to pay for the services, the Contractor may file a claim with the Arkansas State Claims Commission under the laws and regulations governing the filing of such claims.

Q. INDEMNIFICATION:

The following indemnification clause replaces in its entirety the Indemnification clause specified in the Master Agreement.

INDEMNIFICATION - The Contractor shall be fully liable for the actions of its agents, employees, partners, and subcontractors and shall fully indemnify, defend, and hold harmless the Purchasing Entity and the State, and their officers, agents, and employees from suits, actions, damages, and costs of every name and description, including attorney's fees arising from or relating to personal injury and damage to real or personal property, alleged to be caused in whole or in part by the Contractor, its agents, employees, partners, and subcontractors. Language in this clause shall not be construed or deemed as the State's waiver of its right of sovereign immunity. The Contractor agrees that any claims against the State, whether sounding in tort or in contract, shall be brought before the Arkansas State Claims Commission as provided by Arkansas law, and shall be governed accordingly. This section is not subject to any limitations of liability in the Master Agreement or in any other document executed in conjunction with the Master Agreement.

R. CONFIDENTIAL INFORMATION:

Under Arkansas law, the release of public records is governed by the Arkansas Freedom of Information Act found at Section 25-19-101 et. seq. of the Arkansas statutes.

S. CONTINGENT FEE:

The Contractor guarantees that Contractor has not retained a person to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the Contractor for the purpose of securing business.

T. DISCLOSURE AND CERTIFICATIONS:

1. DISCLOSURE

Under Arkansas law, the Office of State Procurement (OSP) is required to have a copy of Governor's Executive Order (EO 98-04) Disclosure Form on file for the Contractor. The

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Contractor shall submit the disclosure form prior to entering into this PA. Failure to make any disclosure required by EO 98-04, or any violation of any rule, regulation, or policy adopted pursuant to that order, shall be a material breach of the terms of this PA. Any Contractor, whether an individual or entity, who fails to make the required disclosure or who violates any rule, regulation, or policy shall be subject to all legal remedies available to the Participating State.

2. RESTRICTION OF BOYCOTT OF ISRAEL

Pursuant to Arkansas Code Annotated § 25-1-503, a public entity shall not enter into a contract with a company unless the contract includes a written certification that the person or company is not currently engaged in and agrees for the duration of the contract not to engage in, a boycott of Israel.

3. RESTRICTION OF ENERGY, FOSSIL FUEL, FIREARMS, AND AMMUNITION INDUSTRIES

Pursuant to Arkansas Code Annotated § 25-1-1102, a public entity shall not contract unless the contract includes a written certification that the Contractor is not currently engaged in and agrees not to engage in, a boycott of an Energy, Fossil Fuel, Firearms, or Ammunition Industry for the duration of the contract.

4. RESTRICTION OF SCRUTINIZED COMPANIES

Pursuant to Arkansas Code Annotated § 25-1-1203, a state agency shall not contract with a Scrutinized Company or a company that employs a Scrutinized Company as a subcontractor. A Scrutinized Company is a company owned in whole or with a majority ownership by the government of the People's Republic of China. A state agency shall require a company that submits a bid or proposal for a contract to certify that it is not a Scrutinized Company and does not employ a Scrutinized Company as a subcontractor.

5. EQUAL OPPORTUNITY POLICY

In compliance with Arkansas Code Annotated § 19-11-104, if a state agency is purchasing services, the Office of State Procurement is required to have a copy of the Contractor's Equal Opportunity (EO) Policy prior to entering into this PA. The submission of an EO Policy is a one-time requirement. The Contractor is responsible for providing updates or changes to its policy, and for supplying EO Policies upon request to other Participating Entities that must also comply with this statute. If the Contractor is not required by law to have an EO Policy, the Contractor must submit a written statement to that effect.

6. PROHIBITION OF EMPLOYMENT OF ILLEGAL IMMIGRANTS

Pursuant to Arkansas Code Annotated § 19-11-105, if a state agency is purchasing services, the Office of State Procurement is required to have a certification on file from the Contractor stating that the Contractor does not employ or contract with illegal immigrants.

U. PERFORMANCE STANDARDS (FOR SERVICES ONLY):

Under Arkansas law, all state agencies, boards, commissions, and institutions of higher education must include performance standards when purchasing services. Performance standards shall be mutually agreed upon by the parties hereto for any services purchased.

V. LEASING:

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Leasing **shall not** be authorized under this PA.

W. VALUE ADDED SERVICES:

The Contractor **shall not** propose or provide value-added services unless it meets one (1) or more of the following criteria:

- It is of no cost to the purchasing entity;
- Services are linked to items the entity has purchased through a current or past transaction.

X. SUBCONTRACTORS:

The Contractor may use subcontractors; however, the Contractor will be responsible for any agreements with the subcontractors. The Participating State and Purchasing Entity are not agreeing to and is not responsible for any terms and conditions with a subcontractor. The following subcontractors are authorized to provide commodity delivery and services:

Subcontractor	Contact Name	Email	Phone
Government Supply Services	Greg Modica	greg@governmentsupplyservices.com	(870) 562-7311

Subcontractors may be updated by mutual agreement.

Y. ORDERS:

Any order placed by a Participating State or Purchasing Entity for a commodity, service, or both 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.

Z. TERMS:

The Participating State and Purchasing Entity are agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with Arkansas law.

AA. PRIMARY CONTACTS:

The primary contact individuals for this PA are as follows (or their named successors):

Lead Entity	
Name:	Commonwealth of Kentucky
Contact Person:	Daniel Salvato, CPPB, NIGP-CPP, KCPM
Address:	200 Mero Street, 5 th Floor, Frankfort, KY 40622
Telephone:	502-564-5862
E-Mail:	daniel.salvato@ky.gov

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Contractor	
Name:	W.W. Grainger, Inc.
Contact Person:	Bart Brown, Government Sales Manager
Address:	10707 E. Pine Street, Tulsa, OK 74116
Telephone:	918-200-5692
E-Mail:	Bart.Brown@grainger.com

Arkansas Contact	
Name:	State of Arkansas Department of Transformation & Shared Services, Office of State Procurement
Contact Person:	Kimberly Haywood, Statewide Procurement Specialist
Address:	501 Woodlane Street, Ste 220 Little Rock, AR 72201
Telephone:	501-683-2222
E-Mail:	Kimberly.Haywood@arkansas.gov

Purchasing Entity	
Name:	
Contact Person:	
Address:	
Telephone:	
E-Mail:	

The contacts listed above can be changed by the parties from time to time in writing. Such updates do not require an amendment to this PA.

By signing this PA, the Contractor represents, warrants, and certifies that they are not a Scrutinized Company and they do not currently and shall not for the aggregate term of a contract resulting from this PA:

- Boycott Israel.
- Knowingly employ or contract with illegal immigrants.
- Boycott Energy, Fossil Fuel, Firearms, or Ammunition Industries.
- Employ a Scrutinized Company as a contractor.

The Contractor further represents, warrants, and certifies that it shall not become a Scrutinized Company during the aggregate term of a contract resulting from this PA.

This PA and the Master Agreement number 758 2500000413 (administered by NASPO Valuepoint) together with its exhibits (including any terms referenced in the Master Agreement), set forth the entire agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with,

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contrary or in addition to the terms and conditions of this PA and the Master Agreement, together with its exhibits, shall not be added to or incorporated into this PA or the Master Agreement and its exhibits, by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this PA and the Master Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

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

Participating State: Arkansas	Contractor: W. W. Grainger
Signature: <i>Jessica Patterson</i>	Signature: <i>Bart Brown</i>
Name: Jessica Patterson	Name: Bart Brown
Title: State Procurement Director	Title: Government Sales Manager
Date: 12/16/2024	Date: 12-6-2024