



**AMENDED AND RESTATED
PARTICIPATING ADDENDUM
NASPO VALUEPOINT**

FACILITIES MAINTENANCE AND REPAIR & OPERATIONS (MRO) AND INDUSTRIAL SUPPLIES

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

MASTER AGREEMENT

Master Agreement No: 8499
(Dated April 25, 2018)

MSC Industrial Supply
(hereinafter "Contractor")

and

State of Washington
(hereinafter "Participating State")

WASHINGTON MASTER CONTRACT No.: 01018

This Amended and Restated Participating Addendum for the above referenced Master Agreement ("Participating Addendum") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and MSC Industrial Supply, a New York Corporation ("Contractor") and is dated and effective as of July 1, 2018.

RECITALS

- A. Pursuant to Legislative authorization codified in RCW 39.26.060, Enterprise Services, on behalf of the State of Washington, is authorized to participate in a cooperative purchasing agreement for the procurement of goods or services and to make such competitively solicited procurement contract resulting therefrom available to Washington state agencies and designated eligible purchasers consist with terms and conditions set forth by Enterprise Services.
- B. Enterprise Services timely provided public notice on Washington's enterprise bid notification system (WEBS) of the competitive solicitation process conducted by the above-referenced lead state.
- C. The above-referenced lead state, as part of its competitive solicitation process, evaluated all responses to its procurement and identified Contractor as an apparent successful bidder and awarded a Master Agreement to Contractor.
- D. Enterprise Services has determined that participating in this Master Agreement will meet the identified needs and be in the best interest of the State of Washington.

- E. The purpose of this Participating Addendum is to enable eligible purchasers to utilize the Master Agreement as conditioned by this Participating Addendum.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. **SCOPE:** This Participating Addendum covers the competitive procurement for Facilities Maintenance and Repair & Operations (MRO) and Industrial Supplies led by the State of Oregon for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts with the prior approval of the State's chief procurement official.
2. **PARTICIPATION:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the prior approval of the respective State chief procurement official. Issues of interpretation and eligibility for participation are solely within the authority of the State chief procurement official. Pursuant to this Participating Addendum, the Master Agreement may be utilized by the following ("Purchasing Entities" or "Purchasers"):
 - (a) WASHINGTON STATE AGENCIES. All Washington state agencies, departments, offices, divisions, BOARDS, and commission;
 - (b) WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION (COLLEGES). Any of the following specific institutions of higher education in Washington:
 - (a) State universities – i.e., University of Washington & Washington State University;
 - (b) Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University;
 - (c) Evergreen State College;
 - (d) Community colleges; and
 - (e) Technical colleges.
 - (c) MCUA PARTIES. The Master Agreement also may be utilized by any of the following types of entities that have executed a Master Contract Usage Agreement (MCUA) with Enterprise Services:
 - Political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) in the State of Washington;
 - Federal governmental agencies or entities;
 - Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
 - Federally-recognized Indian Tribes located in the State of Washington.

3. PARTICIPATING STATE MODIFICATIONS OR ADDITIONS TO MASTER AGREEMENT:

- 3.1. **WASHINGTON'S ELECTRONIC BUSINESS SOLUTIONS (WEBS) SYSTEM:** Within seven (7) days of execution of this Participating Addendum, Contractor shall register in the Washington State Department of Enterprise Services' Electronic Business Solutions (WEBS) System at [WEBS](#).

Contractor shall ensure that all of its information therein is current and accurate and that, throughout the term of the Master Agreement, Contractor shall maintain an accurate profile in WEBS.

- 3.2. **WASHINGTON’S STATEWIDE PAYEE DESK:** To be paid for contract sales, Contractors must register with Washington’s Statewide Payee Desk. Washington state agencies cannot make payments to a contractor until it is registered. Registration materials are available here: [Receiving Payment from the State](#).
- 3.3. **CONTRACTOR AUTHORITY AND INFRINGEMENT:** Contractor must not intentionally infringe on established or future contracts awarded by Enterprise Services. The following chart is a non-exhaustive list of the Participating State’s contracts which may already offer supplies, services, equipment and/or materials offered by the Contractor:

CATEGORY		EXISTING STATE CONTRACTS
1.	HVAC	07815 HVAC Parts 00418 HVAC Filters
2.	Air Filters	00418 HVAC Filters
3.	Lamps, Ballasts, Fixtures	N/A
4.	Cleaning	00812 Janitorial/Industrial Paper Supplies - Green
5.	Material Handling	N/A
6.	Security	05416 Doors, Frames, & Hardware
7.	Electrical	05114 Electrical Supplies
8.	Batteries and Flashlights	N/A
9.	Outdoor Garden	05218 Lawn and Ground Equipment
10.	Plumbing	00417 Plumbing Repair Parts 01118 Plumbing Fixtures & Supplies
11.	Safety	03317 Highway Signal Flares 07215 NASPO Laboratory Equipment & Supplies 00812 Janitorial/Industrial Paper Supplies - Green
12.	Janitorial Equip & Supplies (doesn’t include sanitation cleaning chemicals)	00812 Janitorial/Industrial Paper Supplies - Green
13.	Sanitation cleaning chemicals (does not include janitorial equip)	N/A
14.	Fasteners	N/A

CATEGORY		EXISTING STATE CONTRACTS
15.	Power Sources	N/A
16.	Hand tools	01017 Professional Grade Tools and Diagnostic Equipment 02517 Walk-In Building Supplies (NASPO)
17.	Power tools (excludes automotive)	01017 Professional Grade Tools and Diagnostic Equipment 02517 Walk-In Building Supplies (NASPO)
18.	Paint	02517 Walk-In Building Supplies (NASPO)
19.	Medical Gloves	05311 Gloves, Disposable, Hospital/Medical

Contractor understands and agrees that the intent of this Participating Addendum is to create a supplemental contract. The Master Agreement and this Participating Addendum are not an exclusive purchasing relationship. Contractor further understands and agrees that Enterprise Services, in its sole discretion, may extend any current contract or procure and create any new contract for any goods or services notwithstanding this Participating Addendum.

3.4. **CONTRACT SALES REPORTING:** Contractor shall report total contract sales quarterly to Enterprise Services, as set forth below.

- (a) **REPORTING.** Contractor shall report quarterly Contract sales in Enterprise Services' [Contract Sales Reporting System](#). Enterprise Services will provide Contractor with a login password and a vendor number.
- (b) **DATA.** Each sales report must identify every authorized Purchasing Entity by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Purchasing Entities specified herein during the term of this Participating Addendum. Refer sales reporting questions to the Primary Contact set forth below. If there are no contract sales during the reporting period, Contractor must report zero sales.
- (c) **DUE DATES FOR CONTRACT SALES REPORTING.** Quarterly Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

For Calendar Quarter Ending	Contract Sales Report Due
March 31	April 30
June 30	July 31
September 30	October 31
December 31	January 31

3.5. **VENDOR MANAGEMENT FEE:** Contractor shall pay to Enterprise Services a vendor management fee (“VMF”) of 1.5 percent on the purchase price for all contract sales (the purchase price is the total invoice price less applicable sales tax).

(a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

Amount owed to Enterprise Services = Total contract sales invoiced (not including sales tax) x .0150.

(b) The VMF must be rolled into Contractor’s current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.

(c) Enterprise Services will invoice Contractor quarterly based on contract sales reported by Contractor. Contractor shall not remit payment until it receives an invoice from Enterprise Services. Contractor’s VMF payment to Enterprise Services must reference the following:

- This Washington Master Contract No.: **01018**
- The NASPO Master Agreement No.: **8499**
- The year and quarter for which the VMF is being remitted, and
- Contractor’s name as set forth in this Contract, if not already included on the face of the check.

(d) Contractor’s failure accurately and timely to report total net sales, to submit usage reports, or remit payment of the VMF to Enterprise Services, may be cause for suspension or termination of this Participating Addendum or the exercise of any other remedies as provided by law.

(e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases.

(f) For purposes of the VMF, the parties agree that the initial management fee is included in the pricing. Therefore, any increase or reduction of the management fee must be reflected in contract pricing commensurate with the adjustment.

3.6. **CONTRACTOR REPRESENTATIONS AND WARRANTIES:** Contractor makes each of the following representations and warranties as of the effective date of this Participating Addendum and at the time any order is placed pursuant to the Master Agreement. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

(a) **WAGE VIOLATIONS.** Contractor represents and warrants that, during the term of this Participating Addendum and the three (3) year period immediately preceding the date hereof, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.

(b) **PAY EQUALITY.** Contractor represents and warrants that, among its workers, similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the

performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Participating Addendum (and resulting Master Contract) and any Purchaser hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to this Participating Addendum.

- (c) GREEN/SUSTAINABLE. Contractor represents and warrants that Contractor shall endeavor to supply and delivery goods in alignment with the State of Washington's green/sustainability strategy which, at a minimum is designed to minimize the use of unnecessary product packaging, reduce the use of toxic chemicals, and offer Purchasers, where practicable, 'green products' that provide equivalent performance.
- (d) EXECUTIVE ORDER 18-03 WORKERS' RIGHTS (MANDATORY INDIVIDUAL ARBITRATION). Contractor represents and warrants that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Participating Addendum, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

- 3.7. **COMPLIANCE WITH LAW: TAXES, LICENSES, & REGISTRATION:** Contractor shall comply with all applicable law. Prior to making any sales hereunder, Contractor shall register to conduct business in the State of Washington and promptly acquire and maintain all necessary licenses and registrations and pay all applicable taxes and fees. In addition, for all sales to purchasers in the State of Washington, Contractor shall calculate, collect, and remit, as appropriate, the applicable state and local sales tax on all invoices.

4. **PRIMARY CONTACTS:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor	Participating State
MSC Industrial Supply 3415 S 116 th St. #125 Tukwila, WA 98168	State of Washington Department of Enterprise Services Contracts & Procurement P.O. Box 41411 Olympia, WA 98504-1411
Attn: Damon Perez Tel: (916) 276-9397 Email: perezd@mscdirect.com	Attn: Leslie Edwards Tel: (360) 407-8416 Email: leslie.edwards@des.wa.gov

5. **SUBCONTRACTORS:** Except for subcontracts with Contractor’s Subcontractor Opportunity Program, Contractor shall not subcontract, assign, or otherwise transfer its obligations under the Master Agreement and this Participating Addendum without Enterprise Services’ prior written consent. Violation of this condition shall constitute a material breach establishing grounds for termination of this Participating Addendum.

- (a) **CONTRACTOR’S SUBCONTRACTOR OPPORTUNITY PROGRAM.** Pursuant to the competitive procurement for the underlying Master Agreement, Contractor, as part of its value proposition, developed and assembled a MSC’s Small Business Program (“Subcontractor Opportunity Program”). Contractor’s Subcontractor Opportunity Program is a list of Contractor-approved independent third party commercial firms that Contractor could utilize, in part, as subcontractors to perform certain of Contractor’s obligations pursuant to the Master Agreement. Each such Subcontractor Opportunity Program firm is either a small business, a veteran-owned business, a woman-owned business, or a minority-owned business. Such Subcontractor Opportunity Program firms, which are available to support Contractor for purchases in the State of Washington, are specified on the NASPO ValuePoint website (“Washington State Subcontractor Opportunity Program Subcontractors”).
- (b) **SUBCONTRACTOR AUTHORIZATION.** Contractor is authorized, without additional Participating State consent, to utilize such Washington State Subcontractor Opportunity Program Subcontractors to provide sales and service support to Purchasers hereunder; *provided*, however, that such participation shall be in accordance with the terms and conditions set forth in the Master Agreement and this Participating Addendum; and, *provided further*, that Contractor shall make commercially reasonable efforts to ensure that such subcontractors are registered by the Washington State Department of Enterprise Services as a small, mini, or micro-business, or are certified by the Washington State Department of Veterans’ Affairs as a Washington State Veteran Owned Business, or are certified by the Washington State Office of Minority and Women’s Business Enterprises either as a minority-owned business or as a woman-owned business. Contractor shall maintain a list of such Washington State Subcontractor Opportunity Program Subcontractors (including their registration or certification status – i.e., Small/Mini/Micro; Veteran-Owned; Minority-Owned; Woman-Owned) utilized for this Contract, and, upon request, promptly provide Enterprise Services with such list and any updates.
- (c) **CONTRACTOR RESPONSIBILITY FOR SUBCONTRACTORS.** Contractor shall be responsible to ensure that all requirements of the Master Agreement (including, but not limited to, insurance

requirements, indemnification, Washington state business registration, etc.) flow down to any and all Washington State Subcontractor Opportunity Program Subcontractors. In no event shall the existence of a subcontract between Contractor and its subcontractor operate to release or reduce Contractor's liability to the Participating State or any Purchaser for any breach of the Master Agreement or this Participating Addendum. As to Participating State and Purchasers hereunder, Contractor shall have full and complete responsibility and liability for any act or omission by Contractor's Washington State Subcontractor Opportunity Program Subcontractors.

- (d) PURCHASER PAYMENT REGARDING CONTRACTOR'S WASHINGTON STATE SUBCONTRACTOR OPPORTUNITY PROGRAM SUBCONTRACTORS. Notwithstanding any provision to the contrary, the parties understand and agree that for any contract sales or service provided pursuant to the Master Agreement and this Participating Addendum, Purchaser payment shall be made directly to Contractor as the awarded vendor pursuant to the competitive procurement; *provided*, however, that, in the event any such sales or services are performed by a Washington State Subcontractor Opportunity Program Subcontractor for Contractor, Contractor may instruct such Purchaser to make payment for such sales or services to Contractor's identified Washington State Subcontractor Opportunity Program Subcontractor. Regardless of whether Contractor instructs a Purchaser to make such payment to Contractor's Washington State Subcontractor Opportunity Program Subcontractor, Contractor shall remain responsible for performance.
- (e) CONTRACT SALES REPORTING. Notwithstanding any provision to the contrary, Contractor shall report to Enterprise Services total contract sales, delineated by purchaser, made by each individual Washington State Subcontractor Opportunity Program Subcontractor and also report total contract sales, delineated by purchaser, on a consolidated Contractor 'roll-up' basis. Contractor shall maintain records supporting such reports in accordance with the Master Agreement's records retention requirements.

6. **ORDERS:** Unless the parties to the Order agree in writing that another contract or agreement applies to such order, 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 as conditioned by this Participating Addendum.

7. **GENERAL:**

- (a) INTEGRATED AGREEMENT; MODIFICATION. This Participating Addendum and Master Agreement, together with its exhibits, set forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. This Participating Addendum may not be modified except in writing signed by the Parties.
- (b) AUTHORITY. Each party to this Participating Addendum, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Participating Addendum and that its execution, delivery, and performance of this Participating Addendum has been fully authorized and approved, and that no further approvals or consents are required to bind such party.
- (c) ELECTRONIC SIGNATURES. A signed copy of this Participating Addendum or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be

deemed to have the same legal effect as delivery of an original executed copy of this Participating Addendum or such other ancillary agreement for all purposes.

(d) COUNTERPARTS. This Participating Addendum may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Participating Addendum at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Participating Addendum.

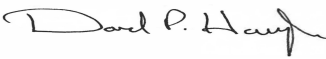
EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: 
Corinna Cooper

Its: Enterprise Procurement Manager

MSC INDUSTRIAL SUPPLY,
A NEW YORK CORPORATION

By: 
David Haugh

Its: VP, Government Sales