

# STATE OF NEBRASKA CONTRACT AMENDMENT

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

PAGE 1 of 2	ORDER DATE 06/15/15
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS: WW GRAINGER, INC 100 OAKCREEK DRIVE LINCOLN NE 68528-1567	

**CONTRACT NUMBER**  
**13001 OC**

THE CONTRACT PERIOD IS:

**MARCH 01, 2014 THROUGH FEBRUARY 28, 2017**

THIS CONTRACT HAS BEEN AMENDED PER THE FOLLOWING INFORMATION:

NO ACTION ON THE PART OF THE VENDOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE EQUIPMENT OR SUPPLIES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE EQUIPMENT OR SUPPLIES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR ITEMS FROM OTHERS SOURCES.

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

Original/Bid Document State of Nevada RFP 1862

The State of Nebraska, Materiel Division, State Purchasing Bureau, has signed a Participating Addendum as part of the Western States Contracting Alliance (WSCA) for Industrial Supplies with Grainger, Inc. This includes all items in the Grainger catalog, and has various discounts depending on the item(s) being purchased. WSCA 1862.

The State reserves the right to extend the period of this contract beyond the termination date 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.

All political sub-divisions, cities, and counties intending to use this contract must contact Grainger to set up an account by signing a participating addendum. You must also reference the contract number on all purchase orders or corresponding documents to be eligible for discount pricing.

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 Nevada. All backup bids, etc. are retained by the State of Nevada, Department of Administration, Purchasing Division).

(For the File: The WSCA/NASPO/Grainger Price Agreement contract period was effective March 1, 2011. The WSCA/NASPO/Grainger Participating Addendum for Nebraska became effective on July 11, 2011).

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 Department of Administrative Services website at: [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require to verify the Contractor's lawful presence in the United States

*RFB 6/15/15*  
*Julie Dabydeen 6/15/15*  
BUYER *6/15/15*  
*6/16/15*  
MATERIEL ADMINISTRATOR

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Lincoln, Nebraska 68508

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BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	

**CONTRACT NUMBER**  
**13001 OC**

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 contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The parties hereby agree that the following documents are incorporated into the contract resulting from this Invitation to Bid:

1. The signed Invitation to Bid Contract document;
2. The original ITB document;
3. Any Addenda and or Amendments to include Questions and Answers;
4. Warranty documents supplied with the bid;
5. The contract award.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number 1 receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) the contract award, 2) ITB addenda or amendments, to include Questions and Answers, with the latest dated amendment having the highest priority, 3) the original ITB, 4) the signed ITB Contract document, 5) warranty documents supplied with the bid.

Any remaining uncertainty or ambiguity shall not be interpreted against either party because such party prepared any portion of the Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3 and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid.

Vendor Contact: Andrew Fichter  
Cell Phone: 757-575-2899  
Grainger Lincoln Branch: 402-476-9014  
Fax: 402-435-0290  
Email: andrew.fichter@grainger.com

PARTICIPATING ADDENDUM AMENDMENT ONE as attached. (bl 01/31/14)

PARTICIPATING ADDENDUM AMENDMENT TWO as attached. (sv 4/1/15)

PARTICIPATING ADDENDUM AMENDMENT THREE as attached. (bl 6/15/15)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES WSCA #1862	4,600,000.0000	\$	1.0000

  
BUYER INITIALS  
R41500JNCSM3001 100500

**PARTICIPATING ADDENDUM  
AMENDMENT THREE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")  
State Contract Number: 13001 OC**

Page 1 of 2

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

**WHEREAS**, the Lead State (Nevada) has a Contract with the Contractor identified as No. 1862 to provide Industrial Supplies. The State has entered into a Participating Addendum with the Contractor identified as 13001 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, 2015:**

1. **CHANGES:** The purpose of this Amendment 3 is as follows:
  - a. **Section 1.9. has been added:**

9. Administrative Fee/Rebate: Acceptance ? Yes  
Grainger will provide a 1% Base Administrative Fee to any Participating State that indicates its acceptance of the Fee by checking yes in the above box. The 1% Fee shall be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement, less any freight, taxes, returns, credits or adjustments.

Payments shall be made in accordance with following schedule:

<b>Period End</b>	<b>Fee Due</b>
December 31	February 15
March 31	May 15
June 30	August 15
September 30	November 15

The Contractor agrees to provide a quarterly utilization report, reflecting new sales to the State during the associated fee period. The report shall be in the format developed by the Lead State and as agreed to by the Contractor. The report will be provided in secure electronic format and/or submitted electronically to the State contact listed in the Addendum.

**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

**PARTICIPATING ADDENDUM  
AMENDMENT THREE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

**State Contract Number: 13001 OC**

Page 2 of 2

1526 K Street Suite 150  
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

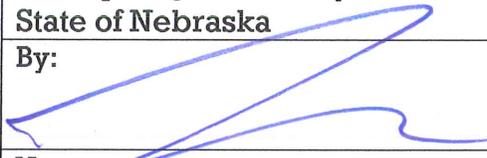
Lincoln, NE 68509-4788

Phone (402) 471-2455

**b. Section 1.b.10. is hereby deleted.**

Terms and conditions inconsistent with, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price 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 Addendum and the Price 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 Addendum as of the date of execution by both parties below.

Participating State/Entity: State of Nebraska	Contractor: W.W. Grainger, Inc.
By: 	By: 
Name: Bo Botelho	Name: Andrew Fichter
Title: AS Materiel Administrator	Title: Senior Government Sales Manager
Date: 6/16/15	Date: 6/10/2015

# STATE OF NEBRASKA CONTRACT AMENDMENT

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, NE 68508  
Telephone: (402) 471-6500  
Fax: (402) 471-2089

PAGE 1 of 2	ORDER DATE 04/01/15
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS:  WW GRAINGER, INC 100 OAKCREEK DRIVE LINCOLN NEBRASKA 68528-1567	

**CONTRACT NUMBER**  
**13001 OC**

THE CONTRACT PERIOD IS:

**MARCH 01, 2014 THROUGH FEBRUARY 28, 2017**

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The State reserves the right to extend the period of this contract beyond the termination date when mutually agreeable to the vendor and the State of Nebraska.

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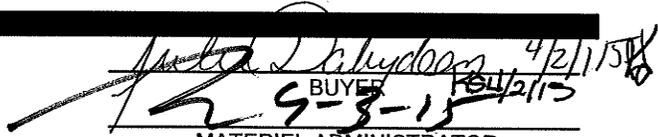
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(For the File: The WSCA/NASPO/Grainger Price Agreement contract period was effective March 1, 2011. The WSCA/NASPO/Grainger Participating Addendum for Nebraska became effective on July 11, 2011).

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BUYER  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA CONTRACT AMENDMENT

State Purchasing Bureau  
1526 K Street, Suite 130  
Lincoln, NE 68508  
Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**13001 OC**

PAGE 2 of 2	ORDER DATE 04/01/15
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	

using the Systematic Alien Verification for Entitlements (SAVE) Program.

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Vendor Contact: Andrew Fichter  
Cell Phone: 757-575-2899  
Grainger Lincoln Branch: 402-476-9014  
Fax: 402-435-0290  
Email: andrew.fichter@grainger.com

PARTICIPATING ADDENDUM AMENDMENT ONE as attached. (bl 01/31/14)

PARTICIPATING ADDENDUM AMENDMENT TWO as attached. (sv 4/1/15)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES WCSA #1862	1,550,000.0000	\$	1.0000

  
BUYER INITIALS  
R43500JNISM0001 100500

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
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And  
State of Nebraska  
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Page 1 of 16

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**WHEREAS**, the Lead State (Nevada) has a Contract with the Contractor identified as No. 1862 to provide Industrial Supplies. The State has entered into a Participating Addendum with the Contractor identified as 13001 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 April 1, 2015:

1. **CHANGES:** The purpose of this Amendment 2 is as follows:

- a. Section 5 – Primary contacts shall read as follows:

Primary Contacts: The primary government contact individuals for this participating addendum are as follows (or their named successors):

**Lead State**

**Name:** Gail Burchett  
**Address:** Nevada Department of Administration, Purchasing Division,  
515 E. Musser Street, Room 300, Carson City, NV 89701  
**Telephone:** (775) 684-0172  
**Fax:** (775) 684-0188  
**E-mail:** [gburchett@admin.nv.gov](mailto:gburchett@admin.nv.gov)

**Contractor**

**Name:** Doug D'Alessio, Senior Government Sales Manager  
**Address:** W. W. Grainger, Inc., 100 Grainger Parkway  
Lake Forest, IL 60045  
**Telephone:** (916) 503-0229  
**Fax:** (916) 471-0515  
**E-mail:** [Doug.M.D'Alessio@grainger.com](mailto:Doug.M.D'Alessio@grainger.com)

**Name:** Andrew Fichter, Senior Government Sales Manager-IL, IA, NE

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
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W.W. Grainger, Inc.  
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And  
State of Nebraska  
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Page 2 of 16

**Address:** 3585 W. Sunset Ave  
Waukegan, IL 60087-3217  
**Cell Phone:** 757-575-2899  
Grainger Lincoln Branch  
**Telephone:** 402-476-9014  
**Fax:** 402-435-0290  
**E-mail:** andrew.fichter@grainger.com

**Participating State (Entity)**

**Name:** Julie Dabydeen  
**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  
**E-mail:** [julie.dabydeen@nebraska.gov](mailto:julie.dabydeen@nebraska.gov)

b. Section 10 shall read as follows:

**10. Single Award Administrative Fee/Rebate:** Acceptance? Yes  
To the extent that Participating State issues Grainger a single, exclusive, sole award to provide maintenance, repair and operating ("MRO") products as set forth in Grainger's WSCA Master Price Agreement 1862, Grainger will provide the Participating State with an additional 2% Single Award Administrative Fee, such Fee to be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement (in Nebraska) less any freight, taxes, returns, credits or other adjustments. As part of the Single Award offer Grainger will also provide the State with a Market Basket of 100 critical items for the State that will be aggressively priced ("Customized Market Basket"). Participating State will be eligible for such Single Award Administrative Fee and the Customized Market Basket for so long as Grainger is the sole provider of MRO products to the State. To the extent that the Participating State issues other contracts covering MRO products, Grainger has the right to terminate providing the Single Award Administrative Fee of 2% and Customized Market Basket. Please indicate your acceptance of the Single Award terms and conditions and the Fee by checking the box above.

Payments shall be made in accordance with following schedule:

Period End

Fee Due

**PARTICIPATING ADDENDUM  
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Page 3 of 16

December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

The Contractor agrees to provide a quarterly utilization report, reflecting new sales to the State during the associated fee period. The report shall be in the format developed by the Lead State and as agreed to by the Contractor. The report will be provided in secure electronic format and/or submitted electronically to the State contact listed in the Addendum.

**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 150  
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 68509-4788  
Phone (402) 471-2455

**2. Changes to State of Nebraska Standard Terms and Conditions:**

a. Section 7 shall read as follows:

**7. PAYMENT**

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. Payment will be made by the responsible agency in compliance with the State of Nebraska Prompt Payment Act (See Neb. Rev. Stat. §81-2401 through 81-2408). 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

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Page 4 of 16

liable to pay for any services/goods provided by the contractor prior to receipt, and the contractor hereby waives any claim or cause of action for any such services/goods.

b. Section 9 shall read as follows:

**9. TAXES**

Purchases of goods or services made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by State Statute Section 77-2704 (l) (m). Exemption by statute precludes the furnishing of State exemption certificates.

c. Section 10 shall read as follows:

**10. REPORTS**

The Contractor shall also provide to the State of Nebraska primary contact person quarterly utilization reports containing at a minimum the following information pertaining to State of Nebraska Utilization:

- 1) Purchase order number;
- 2) Description;
- 3) Quantity; and
- 4) Price.

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

Period End	Report Due
December 31	January 31
March 31	April 30
June 30	July 31
September 30	October 31

Reports associated with the receipt of quarterly administrative fee are nonproprietary and part of the core transparency as referenced on WSCA Proposal No. 1862, Attachment B, Section 4.7 – Reporting Capabilities.

**PARTICIPATING ADDENDUM  
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Page 5 of 16

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

d. Section 11 shall read as follows:

**11. BREACH BY CONTRACTOR**

The State may terminate the contract, in whole or in part, if the contractor fails to perform its obligations under the contract in a timely and proper manner. The State may, by providing a written notice of default to the contractor, allow the contractor to cure a failure or breach of contract within a period of thirty (30) days (or longer at State's discretion considering the gravity and nature of the default). Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery. Allowing the contractor time to cure a failure or breach of contract does not waive the State's right to immediately terminate the contract for the same or different contract breach which may occur at a different time. In case of default of the contractor, the State may contract the service/goods from other sources and hold the contractor responsible for any excess cost occasioned thereby.

e. Section 13 shall read as follows:

**13. EARLY TERMINATION**

The contract may be terminated as follows:

- 1) The State and the contractor, by mutual written agreement, may terminate the contract at any time.
- 2) The State, in its sole discretion, may terminate the contract for any reason upon 30 days written notice to the contractor. Such termination shall not relieve the contractor of warranty or other service obligations incurred under the terms of the contract. In the event of cancellation the contractor shall be entitled to payment, determined on a pro rata basis, for products or services satisfactorily performed or provided.
- 3) The State may terminate the contract immediately for any of the following reasons:
  - a) if directed to do so by statute;

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Page 6 of 16

- 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) a trustee or receiver of the contractor or of any substantial part of the contractor's assets has been appointed by a court;
- d) fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under the contract by its contractor, its employees, officers, directors or shareholders;
- e) an involuntary proceeding has been commenced by any party against the contractor under any one of the chapters of Title 11 of the United States Code and (i) the proceeding has been pending for at least sixty (60) days; or (ii) the contractor has consented, either expressly or by operation of law, to the entry of an order for relief; or (iii) the contractor has been decreed or adjudged a debtor;
- f) a voluntary petition has been filed by the contractor under any of the chapters of Title 11 of the United States Code;
- g) contractor intentionally discloses confidential information;
- h) contractor has or announces it will discontinue support of the deliverable;
- i) second or subsequent documented "vendor performance report" form deemed acceptable by the State Purchasing Bureau.

f. Section 14 shall read as follows:

**14. FORCE MAJEURE**

Neither party shall be liable for any costs or damages resulting from its inability to perform any of its obligations under the contract due to a natural disaster, or other similar event outside the control and not the fault of the affected party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach of the contract. The party so affected shall immediately give notice to the other party of the Force Majeure Event. The State may grant relief from performance of the contract if the contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need for such relief shall rest upon the contractor. To obtain release based on a Force Majeure Event, the contractor shall file a written request for such relief with the State Purchasing Bureau. Labor disputes with the impacted party's own employees will not be considered a Force Majeure Event and will not suspend performance requirements under the contract.

g. Section 16 shall read as follows:

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State of Nebraska  
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Page 7 of 16

**16. LIMITATION OF LIABILITY**

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3, and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid or in the final contract.

h. Section 17 shall read as follows:

**17. INDEMNIFICATION**

1) **GENERAL**

The contractor agrees to defend, indemnify, hold, and save harmless the State and its employees, volunteers, agents, and its elected and appointed officials ("the indemnified parties") 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 ("the claims"), sustained or asserted against the State, arising out of, resulting from, or attributable to the willful misconduct, negligence, error, or omission of the contractor, its employees, subcontractors, consultants, representatives, and agents, except to the extent such contractor liability is attenuated by any action of the State which directly and proximately contributed to the claims.

2) **INTELLECTUAL PROPERTY**

The contractor agrees it will at its sole cost and expense, defend, indemnify, and hold harmless the indemnified parties from and against any and all claims, to the extent such claims arise out of, result from, or are attributable to the actual or alleged infringement or misappropriation of any patent, copyright, trade secret, trademark, or confidential information of any third party by the contractor or its employees, subcontractors, consultants, representatives, and agents; provided, however, the State gives the contractor prompt notice in writing of the claim. The contractor may not settle any infringement claim that will affect the State's use of the Licensed Software without the State's prior written consent, which consent may be withheld for any reason.

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 8 of 16

If a judgment or settlement is obtained or reasonably anticipated against the State's use of any intellectual property for which the contractor has indemnified the State, the contractor shall at the contractor's sole cost and expense promptly modify the item or items which were determined to be infringing, acquire a license or licenses on the State's behalf to provide the necessary rights to the State to eliminate the infringement, or provide the State with a non-infringing substitute that provides the State the same functionality. At the State's election, the actual or anticipated judgment may be treated as a breach of warranty by the contractor, and the State may receive the remedies provided under this contract.

3) **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 provided by the contractor.

i. Section 18 shall read as follows:

**18. SEVERABILITY**

If any term or condition of the contract 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 contract did not contain the particular provision held to be invalid.

j. Section 22 shall read as follows:

**22. COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY  
EMPLOYMENT / NONDISCRIMINATION**

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 of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin (Neb. Rev. Stat. §48-1101 to 48-1125). The contractor guarantees compliance with the

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 9 of 16

Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this contract.

k. Section 23 shall read as follows:

**23. NEW 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 services within the State of Nebraska. 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 a newly hired 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 Department of Administrative Services website at:  
[http://das.nebraska.gov/materiel/purchase\\_bureau/vendor/vendor-info.html](http://das.nebraska.gov/materiel/purchase_bureau/vendor/vendor-info.html)
- 2) If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US 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 contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

l. Section 24 shall read as follows:

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 10 of 16

**24. AUDIT REQUIREMENTS**

(All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

m. Section 25 shall read as follows:

**25. GOVERNING LAW**

The contract shall be governed in all respects by the laws and statutes of the State of Nebraska. Any legal proceedings against the State of Nebraska regarding this contract shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. The contractor must be in compliance with all Nebraska statutory and regulatory law.

**3. ADDING THE FOLLOWING SECTIONS AS FOLLOWS TO THE STATE OF NEBRASKA TERMS:**

**27. PERMITS, REGULATIONS, LAWS**

The contractor shall procure and pay for all permits, licenses and approvals necessary for the execution of the contract. The contractor shall comply with all applicable local, state, and federal laws, ordinances, rules, orders and regulations.

**28. OWNERSHIP OF INFORMATION AND DATA**

With the exception of Contractor's reports and the data contained within Contractor's reports that are identified in transmission as being proprietary the State of Nebraska shall have the unlimited right to publish, duplicate, use and disclose all information and data developed or derived by the contractor pursuant to this contract.

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 11 of 16

The contractor must guarantee that it has the full legal right to the materials, supplies, equipment, and other rights or titles (e.g. rights to licenses transfer or assign deliverables) necessary to execute this contract. The contract price shall, without exception, include compensation for all royalties and costs arising from patents, trademarks and copyrights that are in any way involved in the contract. It shall be the responsibility of the contractor to pay for all royalties and costs, and the State must be held harmless from any such claims.

**29. INDEPENDENT CONTRACTOR**

It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing the relationship of partners between the parties hereto. The contractor represents that it has, or will secure at its own expense, all personnel required to perform the services under the contract. The contractor's employees and other persons engaged in work or services required by the contractor under the contract shall have no contractual relationship with the State; they shall not be considered employees of the State.

All claims on behalf of any person arising out of employment or alleged employment (including without limit claims of discrimination against the contractor, its officers or its agents) shall in no way be the responsibility of the State. The contractor will hold the State harmless from any and all such claims. Such personnel or other persons shall not require nor be entitled to any compensation, rights or benefits from the State including without limit, tenure rights, medical and hospital care, sick and vacation leave, severance pay or retirement benefits.

**30. CONTRACTOR RESPONSIBILITY**

The contractor is solely responsible for fulfilling the contract, with responsibility for all services offered and products to be delivered as stated in the contract. The contractor shall be the sole point of contact regarding all contractual matters.

If the contractor intends to utilize any subcontractors' services, the subcontractors' level of effort, tasks and time allocation must be clearly defined in the contract. The contractor shall agree that it will not utilize any subcontractors not specifically included in this contract, in the performance of the contract, without the prior written *authorization of the State. Following execution of the contract, the contractor shall proceed diligently with all services and shall perform such services with qualified personnel in accordance with the contract.*

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 12 of 16

Contractor sells products and occasionally services accompanying these products, which are not included in Contractor's general catalog. These products are available through Contractor's Product Sourcing Division. These products are obtained by Contractor directly from the manufacturer or supplier. It is the understanding of both parties that the suppliers used by the Product Sourcing Division are not considered subcontractors under this Contract.

**31. ERRORS AND OMISSIONS**

The contractor shall not take advantage of any errors and/or omissions in this contract. The contractor must promptly notify the State of any errors and/or omissions that are discovered.

**32. ASSIGNMENT BY THE STATE**

The State shall have the right to assign or transfer the contract or any of its interests herein to any agency, board, commission, or political subdivision of the State of Nebraska. There shall be no charge to the State for any assignment hereunder.

**33. ASSIGNMENT BY THE CONTRACTOR**

The contractor may not assign, voluntarily or involuntarily, the contract or any of its rights or obligations hereunder (including without limitation rights and duties of performance) to any third party, without the prior written consent of the State, which will not be unreasonably withheld.

**34. ATTORNEY'S FEES**

In the event of any litigation, appeal or other legal action to enforce any provision of the contract, the contractor agrees to pay all expenses of such action, as permitted by law, including attorney's fees and costs, if the State is the prevailing party.

**35. ADVERTISING**

The contractor agrees not to refer to the contract in advertising in such a manner as to state or imply that the company or its services are endorsed or preferred by the State. News releases pertaining to the project shall not be issued without prior written approval from the State.

**36. 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.

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 13 of 16

**37. 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 between the State and the contractor.

**38. FUNDING OUT CLAUSE OR LOSS OF APPROPRIATIONS**

The State may terminate the contract, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for the contract. Should said funds not be appropriated, the State may terminate the contract with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give the contractor written notice thirty (30) days prior to the effective date of any termination, and advise the contractor of the location (address and room number) of any related equipment. All obligations of the State to make payments after the termination date will cease and all interest of the State in any related equipment will terminate. 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.

**39. INVOICES**

Invoices for payments must be submitted by the contractor to the agency requesting the services/goods 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.

**40. ASSURANCES BEFORE BREACH**

If any document or deliverable required pursuant to the contract does not fulfill the requirements of the contract, upon written notice from the State, the contractor shall deliver assurances in the form of additional contractor resources at no additional cost

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 14 of 16

to the project in order to complete the deliverable, and to ensure that other project schedules will not be adversely affected.

**41. INSPECTION AND APPROVAL**

Final inspection and approval of all work required and/or goods received under the contract shall be performed by the designated State officials. The State and/or its authorized representatives shall have the right to enter any premises where the contractor or subcontractor duties under the contract are being performed, and to inspect, monitor or otherwise evaluate the work being performed. All inspections and evaluations shall be at reasonable times and in a manner that will not unreasonably delay work.

**42. CHANGES IN SCOPE/CHANGE ORDERS**

The State may, at any time with written notice to the contractor, make changes within the general scope of the contract. Changes in scope shall only be conducted with the written approval of the State's designee as so defined by the State from time to time. The State may, at any time work is in progress, by written order, make alterations in the terms of work as shown in the specifications, require the performance of extra work, decrease the quantity of work, or make such other changes as the State may find necessary or desirable. The contractor shall not claim forfeiture of contract by reasons of such changes by the State. Changes in work and the amount of compensation to be paid to the contractor for any extra work so ordered shall be determined in accordance with the applicable unit prices of the contract.

Corrections of any deliverable services/goods or performance of work required pursuant to the contract shall not be deemed a modification requiring a change order.

**43. CONFIDENTIALITY**

All materials and information provided by the State or acquired by the contractor on behalf of the State shall be regarded as confidential information. All materials and information provided by the State or acquired by the contractor on behalf of the State shall be handled in accordance with Federal and State Law, and ethical standards. The contractor must ensure the confidentiality of such materials or information. Should said confidentiality be breached by a contractor; contractor shall notify the State immediately of said breach and take immediate corrective action.

It is incumbent upon the contractor to inform its officers and employees of the penalties for improper disclosure imposed by the Privacy Act of 1974, 5 U.S.C. 552a. Specifically, 5 U.S.C. 552a (i)(1), which is made applicable to contractors by 5 U.S.C. 552a (m)(1), provides that any officer or employee of a contractor, who by virtue of

**PARTICIPATING ADDENDUM  
AMENDMENT TWO  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 15 of 16

his/her employment or official position has possession of or access to agency records which contain individually identifiable information, the disclosure of which is prohibited by the Privacy Act or regulations established thereunder, and who knowing that disclosure of the specific material is prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than \$5,000.

**44. NEBRASKA TECHNOLOGY ACCESS STANDARDS**

The following section does not apply to this Contract as it is an MRO not information technology contract. Contractor shall review the Nebraska Technology Access Standards, found at <http://nitc.nebraska.gov/standards/2-201.html> and ensure that products and/or services provided under the contract comply with the applicable standards. In the event such standards change during the contractor's performance, the State may create an amendment to the contract to request that contract comply with the changed standard at a cost mutually acceptable to the parties.

**45. ANTITRUST**

The contractor hereby assigns to the State any and all claims for overcharges as to goods and/or services provided in connection with this contract resulting from antitrust violations which arise under antitrust laws of the United States and the antitrust laws of the State.

**46. TIME IS OF THE ESSENCE**

Time is of the essence in this contract. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a waiver of the requirement of timely performance of any obligations on the part of the contractor remaining to be performed.

**47. CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND INELIGIBILITY**

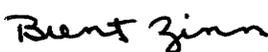
The contractor certifies that the contractor is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any federal department or agency from participating in transactions (debarred). The contractor also agrees to include the above requirements in any and all subcontracts into which it enters. The contractor shall immediately notify the Department if, during the term of this contract, contractor becomes debarred. The Department may immediately terminate this contract by providing contractor written notice if contractor becomes debarred during the term of this contract.

Terms and conditions inconsistent with, contrary or in addition to the terms and

**PARTICIPATING ADDENDUM  
 AMENDMENT TWO  
 WESTERN STATES CONTRACTING ALLIANCE  
 FACILITIES MRO Contracts  
 Administered by the State of Nevada (hereinafter "Lead State")  
 MASTER PRICE AGREEMENT  
 W.W. Grainger, Inc.  
 Nevada Contract Number: 1862  
 (Hereinafter "Contractor")  
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 State of Nebraska  
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conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price 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 Addendum and the Price 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 Addendum as of the date of execution by both parties below.

Participating State/Entity: State of Nebraska	Contractor: W.W. Grainger, Inc.
By: 	By: 
Name: Bo Botelho	Name: Brent Zinn
Title: AS Materiel Administrator	Title: Government Sales Manager
Date: 4-3-15	Date: 3-27-15

# STATE OF NEBRASKA CONTRACT AWARD

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

OR

P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-6500  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**13001 OC**

PAGE 1 of 3	ORDER DATE 01/31/14
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS: WW GRAINGER, INC 100 OAKCREEK DRIVE LINCOLN NEBRASKA 68528-1567	

AN AWARD HAS BEEN MADE TO THE VENDOR NAMED ABOVE FOR THE FURNISHING OF EQUIPMENT, MATERIAL, OR SUPPLIES AS LISTED BELOW FOR THE PERIOD:

**MARCH 01, 2014 THROUGH FEBRUARY 28, 2017**

NO ACTION ON THE PART OF THE VENDOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE EQUIPMENT OR SUPPLIES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE EQUIPMENT OR SUPPLIES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR ITEMS FROM OTHER SOURCES.

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

Original/Bid Document State of Nevada RFP 1862

The State of Nebraska, Materiel Division, State Purchasing Bureau, has signed a Participating Addendum as part of the Western States Contracting Alliance (WSCA) for Industrial Supplies with Grainger, Inc. This includes all items in the Grainger catalog, and has various discounts depending on the item(s) being purchased. WSCA 1862.

The State reserves the right to extend the period of this contract beyond the termination date 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.

All political sub-divisions, cities, and counties intending to use this contract must contact Grainger to set up an account by signing a participating addendum. You must also reference the contract number on all purchase orders or corresponding documents to be eligible for discount pricing.

Rebates will be sent to: DAS Materiel Division, Accounting, P.O. Box 94847, Lincoln, NE 68509-4847.

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>

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system mean the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Responsibility Act of 1996, 8 U.S.C. 1324a, known as E-Verify Program, or an equivalent federal program designed by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

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

  
BUYER  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
 1526 K Street, Suite 130  
 Lincoln, Nebraska 68508  
 OR  
 P.O. Box 94847  
 Lincoln, Nebraska 68509-4847  
 Telephone: (402) 471-6500  
 Fax: (402) 471-2089

**CONTRACT NUMBER  
 13001 OC**

PAGE 2 of 3	ORDER DATE 01/31/14
BUSINESS UNIT 9000	BUYER JULIE DABYDEEN (AS)
VENDOR NUMBER: 1164823	

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at: [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require 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 contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The parties hereby agree that the following documents are incorporated into the contract resulting from this Invitation to Bid:

1. The signed Invitation to Bid Contract document;
2. The original ITB document;
3. Any Addenda and or Amendments to include Questions and Answers;
4. Warranty documents supplied with the bid;
5. The contract award.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number 1 receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) the contract award, 2) ITB addenda or amendments, to include Questions and Answers, with the latest dated amendment having the highest priority, 3) the original ITB, 4) the signed ITB Contract document, 5) warranty documents supplied with the bid.

Any remaining uncertainty or ambiguity shall not be interpreted against either party because such party prepared any portion of the Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3 and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid.

Vendor Contact: Ryan Loughridge  
 Phone: 402-476-9014  
 Email: [ryan.loughridge@grainger.com](mailto:ryan.loughridge@grainger.com)

PARTICIPATING ADDENDUM AMENDMENT ONE as attached. (bl 01/31/14)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES WSCA #1862	1,550,000.0000	\$	1.0000

  
 BUYER INITIALS  
 R43599NISC0601 160423

## STANDARD CONDITIONS AND TERMS OF BID SOLICITATION AND OFFER Invitations to Bid and Contract Awards

It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address: <http://www.das.state.ne.us/materiel/purchasing/purchasing.htm>

**SCOPE-** These standard conditions and terms of bid solicitation and acceptance apply in like force to this inquiry and to any subsequent contract resulting therefrom.

**PRICES-** Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Invitation to Bid. No additional charges will be allowed for packing, packages or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

**EXECUTION-** Bids must be signed in ink by the bidder on the State of Nebraska's Invitation to Bid form. All bids must be typewritten or in ink on the State of Nebraska's Invitation to Bid form. Erasures and alterations must be initialed by the bidder in ink. No telephone or voice bids will be accepted. Failure to comply with these provisions may result in the rejection of the bid.

**FACSIMILE DOCUMENTS-** The State Purchasing Bureau will only accept facsimile responses to Invitations to Bid on bids under \$25,000 and up to ten (10) pages. However, two party sealed bids containing facsimile pages are acceptable. No direct facsimile solicitation responses will be accepted for a commodity contract.

**VALID BID TIME-** Bids shall be firm for a minimum of sixty (60) calendar days after the opening date, unless otherwise stipulated by either party in the Invitation to Bid.

**DISCOUNTS-** Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

**PAYMENT-** Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act 81-2401 through 2408. The State may request that payment be made electronically instead of by state warrant.

**COLLUSIVE BIDDING-** The bidder guarantees that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

**LUMP SUM OR ALL OR NONE BIDS-** The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

**SPECIFICATIONS-** Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The State Purchasing Director will be the sole judge of equivalency. The bidder may offer any brand which meets or exceeds the specification. When a specific product is required, the Invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

**ALTERNATE/EQUIVALENT BIDS-** Bidder may offer bids which are at variance from the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgement of the State Purchasing Director, the bid will result in goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidders must indicate on the Invitation to Bid the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

**SAMPLES-** When requested, samples shall be furnished at the bidders expense prior to the opening of the bid, unless otherwise specified. Each sample must be labeled clearly and identify the bidders name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities or equipment which would be delivered if awarded the bid. The State of Nebraska reserves the right to request samples even though this may not have been set forth in the Invitation to Bid. Samples not destroyed in testing will be returned at bidders expense, if requested, or will be donated to a public institution.

**RECYCLING-** Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per State Statute Section 81-15,159.

**LATE BIDS-** All bids will be time and date stamped upon receipt by the State Purchasing Bureau, and this shall be the official time and date of receipt. Bids received after the time of the bid opening will be considered late bids and will be returned to the bidder unopened. The State Purchasing Bureau is not responsible for late bids or lost requests due to mail service inadequacies, traffic or other similar reasons.

**BID OPENING-** Openings shall be public on the date and time specified on the Invitation to Bid form. It is the bidder's responsibility to assure the bid is delivered at the designated date, time and place of the bid opening. Telephone bids are not acceptable. A bid may not be altered after opening of the bids.

**NO BID-** If not submitting a bid, respond by returning the Invitation to Bid form explaining the reason in the space provided. Failure to respond to an Invitation to Bid may be cause for the removal of the bidder's name from the mailing list. NOTE: To qualify as a respondent, bidder must submit a "NO BID" and it must be received no later than the stated bid opening date and time.

**AWARD-** All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of State Statute Section 81-161, R.R.S. 1943. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid and do not improve the bidders competitive position. All awards will be made in a manner deemed in the best interest of the State.

**BID TABULATIONS-** Tabulations will be furnished upon written request. A self-addressed, stamped envelope which must include the agency and solicitation number must be enclosed. Bid tabulations will not be provided by telephone or facsimile. Bid files may be examined during normal working hours by appointment. Bid tabulations are available on the website at: <http://www.das.state.ne.us/materiel/purchasing/bidtabs.htm>

**PERFORMANCE AND DEFAULT-** The State reserves the right to require a performance bond from the successful bidder, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess cost occasioned thereby.

**IN-STATE PREFERENCE-** A resident bidder shall be allowed a preference against a nonresident from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a nonresident bidder from a state which has no preference law, the resident bidder shall be awarded the contract.

**NONDISCRIMINATION-** The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, to be employed in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin. (State Statute Sections 48-1101 through 48-1125) The bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Invitation to Bid.

**TAXES-** Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by State Statute Section 77-2704 (l) (m) R.R.S. 1943 and must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

**DRUG POLICY -** Bidder certifies that 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.

**GRIEVANCE AND PROTEST-** Grievance and protest procedure is available by contacting the buyer. Protest must be filed within ten (10) days of award.

**NE ACCESS TECHNOLOGY STANDARDS-** Vendor agrees to ensure compliance with Nebraska Access Technology Standards. See website at:

<http://www.nitc.state.ne.us/standards/accessibility/>

Revised: 02/2004

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 1 of 10

1. Scope: This addendum covers the WSCA Facilities MRO Contracts lead by the State of Nevada for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts.

The award to contractor in Master Price Agreement 1862 is for **all categories and for all states (entities)** authorized to use Master Price Agreement 1862.

2. Participation: Use of specific WSCA cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the 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.

3. Participating State Modifications or Additions to Master Price Agreement:  
(These modifications or additions apply only to actions and relationships within the executing Participating State.)

**See State of Nebraska Standard Terms and Conditions below.**

4. Lease Agreements:

**Lease Agreements Are NOT Authorized By This Contract**

5. Primary Contacts: The primary government contact individuals for this participating addendum are as follows (or their named successors):

**Lead State**

**Name:** Gail Burchett  
**Address:** Nevada Department of Administration, Purchasing Division,  
515 E. Musser Street, Room 300, Carson City, NV 89701  
**Telephone:** (775) 684-0172  
**Fax:** (775) 684-0188  
**E-mail:** [gburchett@admin.nv.gov](mailto:gburchett@admin.nv.gov)

**Contractor**

**Name:** Doug D'Alessio, Senior Government Sales Manager  
**Address:** W. W. Grainger, Inc., 100 Grainger Parkway  
Lake Forest, IL 60045  
**Telephone:** (916) 503-0229  
**Fax:** (916) 471-0515

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 2 of 10

**E-mail:** Doug.M.D'Alessio@grainger.com

**Name:** Ryan Loughridge, Government Sales Manager-OK, KS, NE  
IA, SD

**Address:** 4314 Will Rogers Pkwy.  
Oklahoma City, OK 73108

**Cell Phone:** 405-409-6210  
Grainger Lincoln Branch

**Telephone:** 402-476-9014

**Fax:** 402-435-0290

**E-mail:** ryan.loughridge@grainger.com

**Participating State (Entity)**

**Name:** Julie Dabydeen

**Address:** Department of Administrative Services  
Nebraska State Purchasing Bureau  
1526 K Street, Suite 130  
PO Box 94847  
Lincoln NE 68509-4847

**Telephone:** 402-471-1429

**Fax:** 402-471-2089

**E-mail:** julie.dabydeen@nebraska.gov

**6. Subcontractors:**

**NO servicing subcontractors are permitted under this contract.**

**7. Price Agreement Number:** All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 13001 OC and the Lead State price agreement number: 1862.

This Participating Addendum and the Master Price Agreement number 1862 (administered by the State of Nevada) together with its exhibits, 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, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price Agreement and its exhibits, by any subsequent purchase order or otherwise,

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 3 of 10

and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

**8. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009" ("ARRA"):** If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or sub grantee, but simply a provider of goods and related services.

**9. Administrative Fee/Rebate: Acceptance? Yes**

Grainger will provide a 1% Base Administrative Fee to any Participating State that indicates its acceptance of the Fee by checking yes in the above box. The 1% Fee shall be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement, less any freight, taxes, returns, credits or adjustments.

**10. Single Award Administrative Fee/Rebate: Acceptance? Yes**

To the extent that Participating State issues Grainger a single, exclusive, sole award to provide maintenance, repair and operating ("MRO") products as set forth in Grainger's WSCA Master Price Agreement 1862, Grainger will provide the Participating State with an additional 2% Single Award Administrative Fee, such Fee to be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement (in Nebraska) less any freight, taxes, returns, credits or other adjustments. As part of the Single Award offer Grainger will also provide the State with a Market Basket of 100 critical items for the State that will be aggressively priced ("Customized Market Basket"). Participating State will be eligible for such Single Award Administrative Fee and the Customized Market Basket for so long as Grainger is the sole provider of MRO products to the State. To the extent that the Participating State issues other contracts covering MRO products, Grainger has the right to

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 4 of 10

terminate providing the Single Award Administrative Fee of 2% and Customized Market Basket. Please indicate your acceptance of the Single Award terms and conditions and the Fee by checking the box above.

**State of Nebraska  
Standard Terms and Conditions**

1. **SCOPE** This addendum covers Facilities MRO for State Agencies and Political Subdivisions. Contractor may extend the Contract to political subdivisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political subdivisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political subdivisions or other public entities not authorized by Neb. Rev. Stat. § 81-145, listed as "all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations." A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.
2. **TERMS OF THE AGREEMENT** The Addendum, terms and conditions contained herein and the terms and conditions of the Price Agreement, together with its Exhibits, set forth the entire agreement (hereinafter referred to as "Agreement") of the parties with respect to the subject matter hereof. The Addendum and terms and conditions contained herein shall take precedence over the terms and conditions of the Price Agreement, together with its Exhibits.
3. **TERM PERIOD** This Amendment is for the renewal of this contract for the optional one (1) three (3) year period beginning March 1, 2014 through February 28, 2017.
4. **PURCHASES** Purchases may be made under this Agreement by submitting a Purchase Order to Contractor. Contractor shall receive orders via phone, fax, on-line or in person at no additional costs.
5. **F.O.B. DESTINATION** Prices shall be net, including transportation and delivery charges fully prepaid by the Contractor. No additional charges will be allowed for packing. Notwithstanding, Participating State agencies and political subdivision customers shall be responsible for freight charges and costs for items shipped other than standard ground freight.

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts  
Administered by the State of Nevada (hereinafter "Lead State")  
MASTER PRICE AGREEMENT  
W.W. Grainger, Inc.  
Nevada Contract Number: 1862  
(Hereinafter "Contractor")  
And  
State of Nebraska  
(Hereinafter "Participating State")**

Page 5 of 10

6. **DELIVERY OF GOODS** No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor of non-acceptance within fifteen (15) days of delivery of a Product or Service; failing which the Product or Service shall be deemed accepted by the Purchasing Entity.
7. **PROMPT PAYMENT** The State of Nebraska will make payments in strict accordance with the Nebraska Prompt Payment Act, Neb. Rev. Stat. § 81-2401 et seq., as described in Neb. Rev. Stat. § 81-2403 of the Act. Interest charges may be assessed for late payments in accordance with § 81-2404 of the Act. Payments are due upon receipt of an undisputed invoice, merchandise or service, whichever is later, and payable in accordance with the Act unless otherwise specified in a Transaction Document.

The State of Nebraska may terminate this Contract or any purchase order, in whole or in part, in the event funding is no longer available. Its obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for this contract. Should said funds not be appropriated, the State of Nebraska may terminate this Contract or any purchase order with respect to those payments for the fiscal years for which such funds are not appropriated. The State of Nebraska will give the Contractor written notice of thirty (30) days prior to the effective date of any termination under this section. All obligations of the State of Nebraska to make payments after the termination date will cease and all interest of the State of Nebraska in any related equipment will terminate. The Contractor shall be entitled to receive just and fair 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.

8. **TITLE** Title to items ordered shall not pass to the State until the items are received and accepted by the State. The Contractor shall be responsible for any loss prior to the actual receipt of items by the State.
9. **TAXES** The State of Nebraska is exempt from the obligation to pay federal excise taxes; it is further exempt by state law, Neb. Rev. Stat. § 2704.15, from the obligation to pay sales and use taxes. Taxes must not be included in the bid prices. Exemption by statute precludes the obligation to furnish a State of Nebraska exemption certificate. Copies of exemption certificates may be attached hereto as a courtesy.

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 6 of 10

- 10. REPORTS** The Contractor shall also provide to the State of Nebraska primary contact person monthly utilization reports containing at a minimum the following information pertaining to State of Nebraska utilization: (a) purchase order number; (b) description; (c) quantity; and (d) price. These reports will be provided in Excel format and sent via email on a monthly basis, within 45 days of the reporting period.
- 11. DEFAULT AND REMEDIES** To the extent permitted by law, any of the following events shall constitute cause for Nebraska to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract Nebraska shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, Nebraska may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicit.
- 12. RECORDS ADMINISTRATION AND AUDIT OF RECORDS** All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

**13. TERMINATION**

**A. Immediate Termination.** The State may terminate this Agreement immediately for the following reasons.

1. if directed to do so by statute;

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 7 of 10

2. dissolution to Contractor of forfeiture of its corporate existence without the creation or assignment of a successor business entity assuming the obligations of the this Agreement;
3. insolvency or bankruptcy of Contractor;
4. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under this Agreement by Contractor, its employees, officers, directors, or shareholders;
5. intentional disclosure of any confidential information;
6. Contractor has or announces it will no longer accept orders under the current Agreement.

- B. Default by Contactor** The State may terminate this Agreement, in whole or in part, if Contractor fails to perform its obligations under this Agreement in a timely and proper manner. The State will, by providing a written notice of a default by Contractor, allow Contractor to cure a failure or breach of this Agreement within a period of thirty (30) days. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery to W.W. Grainger, Director of Contracts, 100 Grainger Parkway, Lake Forest, Illinois 60045.
- C. Loss of Appropriation** The State may terminate this Agreement, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of the funds for this Agreement. Should said funds not be appropriated, the State may terminate this Agreement with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give Contractor written notice thirty (30) days prior to the effective date of any termination by loss of appropriation. All obligations of the State to make payments after the termination date will cease and all interest of the State in related equipment of services will terminate. Contractor shall be entitled to receive just and equitable compensation for any authorized work which had been satisfactorily completed as the termination date. In no event shall Contractor be paid for a loss of anticipated profit.
- D. Cancellation Without Default.** Either party may terminate this Agreement upon thirty (30) days written notice to the other.

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 8 of 10

14. **FORCE MAJEURE** Neither party shall be liable for any cost or damages resulting from its inability to perform any of its obligations under this Agreement due to natural disaster or similar event outside the control of and not attributable to this fault or negligence of the party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach to this Agreement. A party so affected shall immediately give notice to the other party of the Force Majeure Event. The State of Nebraska may grant relief from the performance of this Agreement if Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need of such relief shall rest with Contractor. To obtain release based on a Force Majeure Event, Contractor must file a written request for such relief with the State. Labor disputes with Contractor's own employees will not be considered a Force Majeure Event and will not suspend performances requirements under this Agreement.
15. **HOLD HARMLESS** Contractor agrees to hold State harmless for all loss or damage sustained by any person as a direct result of the Contractor's negligent performance of this Agreement including all associated cost of defending any action.
16. **LIMITATION OF LIABILITY** The Contractor agrees that there will be no limitation to Contractor's liability under this Agreement except, to the extent permitted by law, that in no event shall Contractor be responsible or liable for any consequential and/or incidental damages.
17. **CONTACTOR INDEMNIFICATION** The State of Nebraska will not provide indemnity for the Contractor.
18. **SEVERABILITY** If any part of this Agreement is found invalid or unenforceable, that part will be enforced to the maximum extent permitted by law, and the remainder of this Agreement will remain in full force.
19. **WAIVER** A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish the party's right thereafter to demand strict performance with that provision or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing and no effective waiver by a party of any of its rights shall be effective to waive any other rights.
20. **MODIFICATION** This Agreement may be amended or supplemented only by a writing that refers explicitly to the Agreement and that is signed on behalf of both parties.

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 9 of 10

Terms and conditions inconsistent with contrary to or in addition to these terms and conditions and Price Agreement, together with their Exhibits, shall not be modified by and subsequent Purchase Order or otherwise by other means, and any such attempts to modify such terms and conditions shall have no effect, whatsoever, unless the modification is made according to the terms of the Price Agreement of this Addendum.

21. **DRUG FREE WORKPLACE** Contractor certifies that it maintains a drug free workplace environment to ensure worker safety and work place integrity. Contactor agrees to provide a copy of its drug free workplace policy at any time upon request by the State.
22. **COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT**  
Contractor shall comply with all applicable local, State and Federal statutes and regulations regarding civil rights laws and equal opportunity employment. Neither supplier nor any subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the employee or applicants hire tenure, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, disability, or national origin.
23. **NEW 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 new employees physically performing services within the State of Nebraska. 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 a newly hired employee
24. **AUDIT REQUIREMENTS** All of Contractor's books, records and documents relating to prices charged to the State under this Agreement shall be subject to audit at any reasonable time upon provision of reasonable notice by the State. These records shall be maintained for period of five (5) years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles. Contractor agrees to refund the State any mutually determined overpayment of license fees resulting from said audit. State agrees to pay Contractor any mutually determined underpayment of license fees resulting from said audit.

**PARTICIPATING ADDENDUM  
AMENDMENT ONE  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

**Administered by the State of Nevada (hereinafter "Lead State")**

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 10 of 10

Contractor agrees to correct within thirty (30) days any incorrect prices charged by Contractor reported to Contractor in the course of an audit.

- 25. GOVERNING LAW AND CHOICE OF LAW** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nebraska without regard to conflict of law principles. Any legal proceedings against the State of Nebraska regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. Contractor must be in compliance with all Nebraska statutory and regulatory law.
- 26. TIME IS OF THE ESSENCE** Time is of the essence in this Agreement. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a waiver of the requirement of timely performance of any obligations on the part of Contractor remaining to be performed

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

Participating State/Entity: State of Nebraska	Contractor: W.W. Grainger, Inc.
By: 	By: 
Name: Bo Botelho	Name: Ryan Loughridge
Title: AS Materiel Administrator	Title: Government Sales Manager
Date: 2/9/14	Date:

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
301 Centennial Mall South, 1st Floor  
Lincoln, Nebraska 68508

OR  
P.O. Box 94847  
Lincoln, Nebraska 68509-4847  
Telephone: (402) 471-2401  
Fax: (402) 471-2089

**CONTRACT NUMBER**  
**13001 OC**

PAGE 1 of 3	ORDER DATE 07/07/11
BUSINESS UNIT 9000	BUYER ROBERT THOMPSON (AS)
VENDOR NUMBER: 1164823	
VENDOR ADDRESS:  WW GRAINGER, INC 100 OAKCREEK DRIVE LINCOLN NEBRASKA 68528-1567	

AN AWARD HAS BEEN MADE TO THE VENDOR NAMED ABOVE FOR THE FURNISHING OF EQUIPMENT, MATERIAL, OR SUPPLIES AS LISTED BELOW FOR THE PERIOD:

**JULY 11, 2011 THROUGH FEBRUARY 28, 2014**

NO ACTION ON THE PART OF THE VENDOR NEEDS TO BE TAKEN AT THIS TIME. ORDERS FOR THE EQUIPMENT OR SUPPLIES WILL BE MADE AS NEEDED BY THE VARIOUS AGENCIES OF THE STATE.

THIS CONTRACT IS NOT AN EXCLUSIVE CONTRACT TO FURNISH THE EQUIPMENT OR SUPPLIES SHOWN BELOW, AND DOES NOT PRECLUDE THE PURCHASE OF SIMILAR ITEMS FROM OTHER SOURCES.

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

Original/Bid Document State of Nevada RFP 1862

The State of Nebraska, Materiel Division, State Purchasing Bureau, has signed a Participating Addendum as part of the Western States Contracting Alliance (WSCA) for Industrial Supplies with Grainger, Inc. This includes all items in the Grainger catalog, and has various discounts depending on the item(s) being purchased. WSCA 1862.

The contract may be renewed for one (1) three (3) year period when mutually agreeable to the vendor and the State of Nebraska. The State reserves the right to extend the period of this contract beyond the termination date 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.

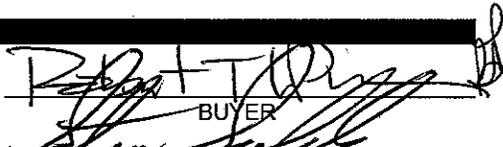
All political sub-divisions, cities, and counties intending to use this contract must contact Grainger to set up an account by signing a participating addendum. You must also reference the contract number on all purchase orders or corresponding documents to be eligible for discount pricing.

Rebates will be sent to: DAS Materiel Division, Accounting, P.O. Box 94847, Lincoln, NE 68509-4847.

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>

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system mean the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Responsibility Act of 1996, 8 U.S.C. 1324a, known as E-Verify Program, or an equivalent federal program designed by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

  
BUYER  
  
MATERIEL ADMINISTRATOR

# STATE OF NEBRASKA CONTRACT AWARD

State Purchasing Bureau  
 301 Centennial Mall South, 1st Floor  
 Lincoln, Nebraska 68508  
 OR  
 P.O. Box 94847  
 Lincoln, Nebraska 68509-4847  
 Telephone: (402) 471-2401  
 Fax: (402) 471-2089

**CONTRACT NUMBER**  
**13001 OC**

PAGE 2 of 3	ORDER DATE 07/07/11
BUSINESS UNIT 9000	BUYER ROBERT THOMPSON (AS)
VENDOR NUMBER: 1164823	

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 Department of Administrative Services website at: [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation require 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 contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

The parties hereby agree that the following documents are incorporated into the contract resulting from this Invitation to Bid:

1. The signed Invitation to Bid Contract document;
2. The original ITB document;
3. Any Addenda and or Amendments to include Questions and Answers;
4. Warranty documents supplied with the bid;
5. The contract award.

Unless otherwise specifically stated in a contract amendment, in case of any conflict between the incorporated documents, the documents shall govern in the following order of preference with number 1 receiving preference over all other documents and with each lower numbered document having preference over any higher numbered document: 1) the contract award, 2) ITB addenda or amendments, to include Questions and Answers, with the latest dated amendment having the highest priority, 3) the original ITB, 4) the signed ITB Contract document, 5) warranty documents supplied with the bid.

Any remaining uncertainty or ambiguity shall not be interpreted against either party because such party prepared any portion of the Agreement, but shall be interpreted according to the application of rules of interpretation of contracts generally.

It is understood by the parties that in the State of Nebraska's opinion, any limitation on the contractor's liability is unconstitutional under the Nebraska State Constitution, Article XIII, Section 3 and that any limitation of liability shall not be binding on the State of Nebraska despite inclusion of such language in documents supplied with the contractor's bid.

Vendor Contact: Kari Stoltz  
 Phone: 651-491-3442  
 Fax: 816-483-8825  
 Email: [kari.stoltz@grainger.com](mailto:kari.stoltz@grainger.com)

(07/07/11 djg)

Line	Description	Estimated Quantity	Unit of Measure	Unit Price
1	INDUSTRIAL SUPPLIES WSCA #1862	1,550,000.0000	\$	1.0000

  
 BUYER INITIALS

## STANDARD CONDITIONS AND TERMS OF BID SOLICITATION AND OFFER Invitations to Bid and Contract Awards

It is the responsibility of the bidder to check the website for all information relevant to this solicitation to include addenda and/or amendments issued prior to the opening date. Website address: <http://www.das.state.ne.us/materiel/purchasing/purchasing.htm>

**SCOPE-** These standard conditions and terms of bid solicitation and acceptance apply in like force to this inquiry and to any subsequent contract resulting therefrom.

**PRICES-** Prices quoted shall be net, including transportation and delivery charges fully prepaid by the bidder, F.O.B. destination named in the Invitation to Bid. No additional charges will be allowed for packing, packages or partial delivery costs. When an arithmetic error has been made in the extended total, the unit price will govern.

**EXECUTION-** Bids must be signed in ink by the bidder on the State of Nebraska's Invitation to Bid form. All bids must be typewritten or in ink on the State of Nebraska's Invitation to Bid form. Erasures and alterations must be initialed by the bidder in ink. No telephone or voice bids will be accepted. Failure to comply with these provisions may result in the rejection of the bid.

**FACSIMILE DOCUMENTS-** The State Purchasing Bureau will only accept facsimile responses to Invitations to Bid on bids under \$25,000 and up to ten (10) pages. However, two party sealed bids containing facsimile pages are acceptable. No direct facsimile solicitation responses will be accepted for a commodity contract.

**VALID BID TIME-** Bids shall be firm for a minimum of sixty (60) calendar days after the opening date, unless otherwise stipulated by either party in the Invitation to Bid.

**DISCOUNTS-** Prices quoted shall be inclusive of ALL trade discounts. Cash discount terms of less than thirty (30) days will not be considered as part of the bid. Cash discount periods will be computed from the date of receipt of a properly executed claim voucher or the date of completion of delivery of all items in a satisfactory condition, whichever is later.

**PAYMENT-** Payment will be made by the responsible agency in conjunction with the State of Nebraska Prompt Payment Act 81-2401 through 2408. The State may request that payment be made electronically instead of by state warrant.

**COLLUSIVE BIDDING-** The bidder guarantees that the prices quoted have been arrived at without collusion with other eligible bidders and without effort to preclude the State of Nebraska from obtaining the lowest possible competitive price.

**LUMP SUM OR ALL OR NONE BIDS-** The State reserves the right to purchase item-by-item, by groups or as a total when the State may benefit by so doing. Bidders may submit a bid on an "all or none" or "lump sum" basis but should also submit a bid on an item-by-item basis. The term "all or none" means a conditional bid which requires the purchase of all items on which bids are offered and bidder declines to accept award on individual items; a "lump sum" bid is one in which the bidder offers a lower price than the sum of the individual bids if all items are purchased but agrees to deliver individual items at the prices quoted.

**SPECIFICATIONS-** Any manufacturer's names, trade names, brand names, information and/or catalog numbers listed in a specification are for reference and not intended to limit competition, but will be used as the standard by which equivalent material offered will be judged. The State Purchasing Director will be the sole judge of equivalency. The bidder may offer any brand which meets or exceeds the specification. When a specific product is required, the Invitation to Bid will so state. Any item bid is to be the latest current model under standard production at the time of order. No used or refurbished equipment will be accepted, unless otherwise stated.

**ALTERNATE/EQUIVALENT BIDS-** Bidder may offer bids which are at variance from the express specifications of the Invitation to Bid. The State reserves the right to consider and accept such bids if, in the judgement of the State Purchasing Director, the bid will result in goods and/or services equivalent to or better than those which would be supplied in the original bid specifications. Bidders must indicate on the Invitation to Bid the manufacturer's name, number and shall submit with their bid, sketches, descriptive literature and/or complete specifications. Reference to literature submitted with a previous bid will not satisfy this provision. Bids which do not comply with these requirements are subject to rejection. In the absence of any stated deviation or exception, the bid will be accepted as in strict compliance with all terms, conditions and specifications, and the bidder shall be held liable therefore.

**SAMPLES-** When requested, samples shall be furnished at the bidders expense prior to the opening of the bid, unless otherwise specified. Each sample must be labeled clearly and identify the bidders name, the Invitation to Bid number and the item number. Samples submitted must be representative of the commodities or equipment which would be delivered if awarded the bid. The State of Nebraska reserves the right to request samples even though this may not have been set forth in the Invitation to Bid. Samples not destroyed in testing will be returned at bidders expense, if requested, or will be donated to a public institution.

**RECYCLING-** Preference will be given to items which are manufactured or produced from recycled material or which can be readily reused or recycled after their normal use as per State Statute Section 81-15,159.

**LATE BIDS-** All bids will be time and date stamped upon receipt by the State Purchasing Bureau, and this shall be the official time and date of receipt. Bids received after the time of the bid opening will be considered late bids and will be returned to the bidder unopened. The State Purchasing Bureau is not responsible for late bids or lost requests due to mail service inadequacies, traffic or other similar reasons.

**BID OPENING-** Openings shall be public on the date and time specified on the Invitation to Bid form. It is the bidder's responsibility to assure the bid is delivered at the designated date, time and place of the bid opening. Telephone bids are not acceptable. A bid may not be altered after opening of the bids.

**NO BID-** If not submitting a bid, respond by returning the Invitation to Bid form explaining the reason in the space provided. Failure to respond to an Invitation to Bid may be cause for the removal of the bidder's name from the mailing list. NOTE: To qualify as a respondent, bidder must submit a "NO BID" and it must be received no later than the stated bid opening date and time.

**AWARD-** All purchases, leases, or contracts which are based on competitive bids will be awarded to the lowest responsible bidder, determined according to the provisions of State Statute Section 81-161, R.R.S. 1943. The State reserves the right to reject any or all bids, wholly or in part and to waive any deviations or errors that are not material, do not invalidate the legitimacy of the bid and do not improve the bidders competitive position. All awards will be made in a manner deemed in the best interest of the State.

**BID TABULATIONS-** Tabulations will be furnished upon written request. A self-addressed, stamped envelope which must include the agency and solicitation number must be enclosed. Bid tabulations will not be provided by telephone or facsimile. Bid files may be examined during normal working hours by appointment. Bid tabulations are available on the website at: <http://www.das.state.ne.us/materiel/purchasing/bidtabs.htm>

**PERFORMANCE AND DEFAULT-** The State reserves the right to require a performance bond from the successful bidder, as provided by law, without expense to the State. Otherwise, in case of default of the contractor, the State may procure the articles from other sources and hold the contractor responsible for any excess cost occasioned thereby.

**IN-STATE PREFERENCE-** A resident bidder shall be allowed a preference against a nonresident from a state which gives or requires a preference to bidders from that state. The preference shall be equal to the preference given or required by the state of the nonresident bidders. Where the lowest responsible bid from a resident bidder is equal in all respects to one from a nonresident bidder from a state which has no preference law, the resident bidder shall be awarded the contract.

**NONDISCRIMINATION-** The Nebraska Fair Employment Practice Act prohibits contractors of the State of Nebraska, and their subcontractors, from discriminating against any employee or applicant for employment, to be employed in the performance of such contracts, with respect to hire, tenure, terms, conditions or privileges of employment because of race, color, religion, sex, disability, or national origin. (State Statute Sections 48-1101 through 48-1125) The bidder guarantees compliance with the Nebraska Fair Employment Practice Act, and breach of this provision shall be regarded as a material breach of contract. The contractor shall insert a similar provision in all subcontracts for services to be covered by any contract resulting from this Invitation to Bid.

**TAXES-** Purchases made by the State of Nebraska are exempt from the payment of Federal Excise Taxes, and exemption certificates will be furnished on request. State and local taxes are exempt by State Statute Section 77-2704 (l) (m) R.R.S. 1943 and must not be included in the bid prices. Exemption by statute precludes the furnishing of State exemption certificates.

**DRUG POLICY -** Bidder certifies that 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.

**GRIEVANCE AND PROTEST-** Grievance and protest procedure is available by contacting the buyer. Protest must be filed within ten (10) days of award.

**NE ACCESS TECHNOLOGY STANDARDS-** Vendor agrees to ensure compliance with Nebraska Access Technology Standards. See website at:

<http://www.nitc.state.ne.us/standards/accessibility/>

Revised: 02/2004

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 1 of 15

1. Scope: This addendum covers the WSCA Facilities MRO Contracts lead by the State of Nevada for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state contracts.

The award to contractor in Master Price Agreement 1862 is for all categories and for all states (entities) authorized to use Master Price Agreement 1862.

2. Participation: Use of specific WSCA cooperative contracts by state agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state contracts are subject to the 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.

3. Participating State Modifications or Additions to Master Price Agreement:  
(These modifications or additions apply only to actions and relationships within the executing Participating State.)

See State of Nebraska Standard Terms and Conditions below.

4. Lease Agreements:

Lease Agreements Are NOT Authorized By This Contract

5. Primary Contacts: The primary government contact individuals for this participating addendum are as follows (or their named successors):

Lead State

Name: Gail Burchett

PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE

**FACILITIES MRO Contracts**

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MASTER PRICE AGREEMENT

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Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

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(Hereinafter "Participating State")

Page 2 of 15

Address: Nevada Department of Administration, Purchasing Division,  
515 E. Musser Street, 3<sup>rd</sup> Floor, Carson City, NV 89701

Telephone: (775) 684-0172

Fax: (775) 684-0188

E-mail: [gburchet@purchasing.state.nv.us](mailto:gburchet@purchasing.state.nv.us)

Contractor

Name: Doug D'Alessio, Senior Government Sales Manager

Address: W. W. Grainger, Inc., 100 Grainger Parkway  
Lake Forest, IL 60045

Telephone: (916) 503-0229

Fax: (916) 471-0515

E-mail: [Doug.M.D'Alessio@grainger.com](mailto:Doug.M.D'Alessio@grainger.com)

Participating State (Entity)

Name: Robert Thompson

Address: Department of Administrative Services  
Nebraska State Purchasing Bureau  
301 Centennial Mall South, Mall Level  
PO Box 94847  
Lincoln NE 68509-4847

Telephone: 402-471-1427

Fax: 402-471-2089

E-mail: [robert.thompson@nebraska.gov](mailto:robert.thompson@nebraska.gov)

6. Subcontractors:

NO servicing subcontractors are permitted under this contract.

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 3 of 15

7. Price Agreement Number: All purchase orders issued by purchasing entities within the jurisdiction of this participating addendum shall include the Participating State contract number: 13001 OC and the Lead State price agreement number: 1862.

This Participating Addendum and the Master Price Agreement number 1862 (administered by the State of Nevada) together with its exhibits, 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, contrary or in addition to the terms and conditions of this Addendum and the Price Agreement, together with its exhibits, shall not be added to or incorporated into this Addendum or the Price 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 Addendum and the Price Agreement and its exhibits shall prevail and govern in the case of any such inconsistent or additional terms within the Participating State.

8. Compliance with reporting requirements of the "American Recovery and Reinvestment Act of 2009" ("ARRA"): If or when contractor is notified by ordering entity that a specific purchase or purchases are being made with ARRA funds, contractor agrees to comply with the data element and reporting requirements as currently defined in Federal Register Vol 74 #61, Pages 14824-14829 (or subsequent changes or modifications to these requirements as published by the Federal OMB). Ordering entity is responsible for informing contractor as soon as the ordering entity is aware that ARRA funds are being used for a purchase or purchases. Contractor will provide the required report to the ordering entity with the invoice presented to the ordering entity for

**PARTICIPATING ADDENDUM**  
**WESTERN STATES CONTRACTING ALLIANCE**  
**FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 4 of 15

payment. The contractor, as it relates to purchases under this contract, is not a subcontractor or sub grantee, but simply a provider of goods and related services.

9. Administrative Fee/Rebate: Acceptance? Yes

Grainger will provide a 1% Base Administrative Fee to any Participating State that indicates its acceptance of the Fee by checking yes in the above box. The 1% Fee shall be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement, less any freight, taxes, returns, credits or adjustments.

10. Single Award Administrative Fee/Rebate: Acceptance? Yes

To the extent that Participating State issues Grainger a single, exclusive, sole award to provide maintenance, repair and operating ("MRO") products as set forth in Grainger's WSCA Master Price Agreement 1862, Grainger will provide the Participating State with an additional 2% Single Award Administrative Fee, such Fee to be paid quarterly, 45 days after the close of the quarter, on all purchases under the Price Agreement (in Nebraska) less any freight, taxes, returns, credits or other adjustments. As part of the Single Award offer Grainger will also provide the State with a Market Basket of 100 critical items for the State that will be aggressively priced ("Customized Market Basket"). Participating State will be eligible for such Single Award Administrative Fee and the Customized Market Basket for so long as Grainger is the sole provider of MRO products to the State. To the extent that the Participating State issues other contracts covering MRO products, Grainger has the right to terminate providing the Single Award Administrative Fee of 2% and Customized Market Basket. Please indicate your acceptance of the Single Award terms and conditions and the Fee by checking the box above.

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE**

**FACILITIES MRO Contracts**

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

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 5 of 15

**State of Nebraska  
Standard Terms and Conditions**

1. **SCOPE** This addendum covers Facilities MRO for State Agencies and Political Subdivisions. Contractor may extend the Contract to political subdivisions conditioned upon the honoring of the prices charged to the State. Terms and conditions of the Contract must be met by political subdivisions. Under no circumstances shall the State be contractually obligated or liable for any purchases by political subdivisions or other public entities not authorized by Neb. Rev. Stat. § 81-145, listed as "all officers of the state, departments, bureaus, boards, commissions, councils, and institutions receiving legislative appropriations." A listing of Nebraska political subdivisions may be found at the website of the Nebraska Auditor of Public Accounts.
2. **TERMS OF THE AGREEMENT** The Addendum, terms and conditions contained herein and the terms and conditions of the Price Agreement, together with its Exhibits, set forth the

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 6 of 15

entire agreement (hereinafter referred to as "Agreement") of the parties with respect to the subject matter hereof. The Addendum and terms and conditions contained herein shall take precedence over the terms and conditions of the Price Agreement, together with its Exhibits.

3. **PURCHASES** Purchases may be made under this Agreement by submitting a Purchase Order to Contractor. Contractor shall receive orders via phone, fax, on-line or in person at no additional costs.
4. **F.O.B. DESTINATION** Prices shall be net, including transportation and delivery charges fully prepaid by the Contractor. No additional charges will be allowed for packing. Notwithstanding, Participating State agencies and political subdivision customers shall be responsible for freight charges and costs for items shipped other than standard ground freight.
5. **DELIVERY OF GOODS** No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor of non-acceptance within fifteen (15) days of delivery of a Product or Service; failing which the Product or Service shall be deemed accepted by the Purchasing Entity.
6. **PROMPT PAYMENT** The State of Nebraska will make payments in strict accordance with the Nebraska Prompt Payment Act, Neb. Rev. Stat. § 81-2401 et seq., as described in Neb. Rev. Stat. § 81-2403 of the Act. Interest charges may be assessed for late payments in accordance with § 81-2404 of the Act. Payments are due upon receipt of an undisputed

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE**

**FACILITIES MRO Contracts**

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

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 7 of 15

invoice, merchandise or service, whichever is later, and payable in accordance with the Act unless otherwise specified in a Transaction Document.

The State of Nebraska may terminate this Contract or any purchase order, in whole or in part, in the event funding is no longer available. Its obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of funds for this contract. Should said funds not be appropriated, the State of Nebraska may terminate this Contract or any purchase order with respect to those payments for the fiscal years for which such funds are not appropriated. The State of Nebraska will give the Contractor written notice of thirty (30) days prior to the effective date of any termination under this section. All obligations of the State of Nebraska to make payments after the termination date will cease and all interest of the State of Nebraska in any related equipment will terminate. The Contractor shall be entitled to receive just and fair 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.

7. **TITLE** Title to items ordered shall not pass to the State until the items are received and accepted by the State. The Contractor shall be responsible for any loss prior to the actual receipt of items by the State.
  
8. **TAXES** The State of Nebraska is exempt from the obligation to pay federal excise taxes; it is further exempt by state law, Neb. Rev. Stat. § 2704.15, from the obligation to pay sales and use taxes. Taxes must not be included in the bid prices. Exemption by statute precludes the obligation to furnish a State of Nebraska exemption certificate. Copies of exemption certificates may be attached hereto as a courtesy.

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 8 of 15

9. **REPORTS** The Contractor shall also provide to the State of Nebraska primary contact person monthly utilization reports containing at a minimum the following information pertaining to State of Nebraska utilization: (a) purchase order number; (b) description; (c) quantity; and (d) price. These reports will be provided in Excel format and sent via email on a monthly basis, within 45 days of the reporting period.

10. **DEFAULT AND REMEDIES** To the extent permitted by law, any of the following events shall constitute cause for Nebraska to declare Contractor in default of the contract: 1. Nonperformance of contractual requirements; 2. A material breach of any term or condition of this contract Nebraska shall issue a written notice of default providing a period in which Contractor shall have an opportunity to cure. Time allowed for cure shall not diminish or eliminate Contractor's liability for liquidated or other damages. If the default remains, after Contractor has been provided the opportunity to cure, Nebraska may do one or more of the following: 1. Exercise any remedy provided by law; 2. Terminate this contract and any related contracts or portions thereof; 3. Impose liquidated damages; 4. Suspend contractor from receiving future proposal solicit

**PARTICIPATING ADDENDUM**  
**WESTERN STATES CONTRACTING ALLIANCE**  
**FACILITIES MRO Contracts**

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

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 9 of 15

11. **REGORDS ADMINISTRATION AND AUDIT OF RECORDS** All contractor books, records and documents relating to work performed or monies received under the contract shall be subject to audit at any reasonable time upon the provision of reasonable notice by the State. These records shall be maintained for a period of five (5) full years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles.

In addition to, and in no way in limitation of any obligation in the contract, the contractor shall agree that it will be held liable for any State audit exceptions, and shall return to the State all payments made under the contract for which an exception has been taken or which has been disallowed because of such an exception. The contractor agrees to correct immediately any material weakness or condition reported to the State in the course of an audit.

**12. TERMINATION**

- A. **Immediate Termination.** The State may terminate this Agreement immediately for the following reasons:

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 10 of 15

1. if directed to do so by statute;
  2. dissolution to Contractor of forfeiture of its corporate existence without the creation or assignment of a successor business entity assuming the obligations of the this Agreement;
  3. insolvency or bankruptcy of Contractor;
  4. fraud, misappropriation, embezzlement, malfeasance, misfeasance, or illegal conduct pertaining to performance under this Agreement by Contractor, its employees, officers, directors, or shareholders;
  5. intentional disclosure of any confidential information;
  6. Contractor has or announces it will no longer accept orders under the current Agreement.
- B. **Default by Contractor** The State may terminate this Agreement, in whole or in part, if Contractor fails to perform its obligations under this Agreement in a timely and proper manner. The State will, by providing a written notice of a default by Contractor, allow Contractor to cure a failure or breach of this Agreement within a period of thirty (30) days. Said notice shall be delivered by Certified Mail, Return Receipt Requested or in person with proof of delivery to W.W. Grainger, Director of Contracts, 100 Grainger Parkway, Lake Forest, Illinois 60045.
- C. **Loss of Appropriation** The State may terminate this Agreement, in whole or in part, in the event funding is no longer available. The State's obligation to pay amounts due for fiscal years following the current fiscal year is contingent upon legislative appropriation of the funds for this Agreement. Should said funds not be

PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE

FACILITIES MRO Contracts

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

MASTER PRICE AGREEMENT

W.W. Grainger, Inc.

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 11 of 15

appropriated, the State may terminate this Agreement with respect to those payments for the fiscal years for which such funds are not appropriated. The State will give Contractor written notice thirty (30) days prior to the effective date of any termination by loss of appropriation. All obligations of the State to make payments after the termination date will cease and all interest of the State in related equipment of services will terminate. Contractor shall be entitled to receive just and equitable compensation for any authorized work which had been satisfactorily completed as the termination date. In no event shall Contractor be paid for a loss of anticipated profit.

- D. **Cancellation Without Default.** Either party may terminate this Agreement upon thirty (30) days written notice to the other.
13. **FORCE MAJEURE** Neither party shall be liable for any cost or damages resulting from its inability to perform any of its obligations under this Agreement due to natural disaster or similar event outside the control of and not attributable to this fault or negligence of the party ("Force Majeure Event"). A Force Majeure Event shall not constitute a breach to this Agreement. A party so affected shall immediately give notice to the other party of the Force Majeure Event. The State of Nebraska may grant relief from the performance of this Agreement if Contractor is prevented from performance by a Force Majeure Event. The burden of proof for the need of such relief shall rest with Contractor. To obtain release based on a Force Majeure Event, Contractor must file a written request for such relief with the State. Labor disputes with Contractor's own employees will not be considered a Force Majeure Event and will not suspend performances requirements under this Agreement.

**PARTICIPATING ADDENDUM**  
**WESTERN STATES CONTRACTING ALLIANCE**  
**FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 12 of 15

14. **HOLD HARMLESS** Contractor agrees to hold State harmless for all loss or damage sustained by any person as a direct result of the Contractor's negligent performance of this Agreement including all associated cost of defending any action.
  
15. **LIMITATION OF LIABILITY** The Contractor agrees that there will be no limitation to Contractor's liability under this Agreement except, to the extent permitted by law, that in no event shall Contractor be responsible or liable for any consequential and/or incidental damages.
  
16. **CONTRACTOR INDEMNIFICATION** The State of Nebraska will not provide indemnity for the Contractor.
  
17. **SEVERABILITY** If any part of this Agreement is found invalid or unenforceable, that part will be enforced to the maximum extent permitted by law, and the remainder of this Agreement will remain in full force.
  
18. **WAIVER** A party's failure to require strict performance of any provision of this Agreement shall not waive or diminish the party's right thereafter to demand strict performance with that provision or any other provision. No waiver by a party of any of its rights under this Agreement shall be effective unless express and in writing and no effective waiver by a party of any of its rights shall be effective to waive any other rights.
  
19. **MODIFICATION** This Agreement may be amended or supplemented only by a writing that refers explicitly to the Agreement and that is signed on behalf of both parties. Terms and

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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MASTER PRICE AGREEMENT

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Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 13 of 15

conditions inconsistent with contrary to or in addition to these terms and conditions and Price Agreement, together with their Exhibits, shall not be modified by and subsequent Purchase Order or otherwise by other means, and any such attempts to modify such terms and conditions shall have no effect, whatsoever, unless the modification is made according to the terms of the Price Agreement of this Addendum.

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

21. **COMPLIANCE WITH CIVIL RIGHTS LAWS AND EQUAL OPPORTUNITY EMPLOYMENT**

Contractor shall comply with all applicable local, State and Federal statutes and regulations regarding civil rights laws and equal opportunity employment. Neither supplier nor any subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to the employee or applicants hire, tenure, terms, conditions or privileges of employment, because of his or her race, color, religion, sex, disability, or national origin.

22. **NEW 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 new employees physically performing services within the State of Nebraska. 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.

**PARTICIPATING ADDENDUM  
WESTERN STATES CONTRACTING ALLIANCE  
FACILITIES MRO Contracts**

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

**MASTER PRICE AGREEMENT**

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 14 of 15

designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee

23. **AUDIT REQUIREMENTS** All of Contractor's books, records and documents relating to prices charged to the State under this Agreement shall be subject to audit at any reasonable time upon provision of reasonable notice by the State. These records shall be maintained for period of five (5) years from the date of final payment, or until all issues related to an audit, litigation or other action are resolved, whichever is longer. All records shall be maintained in accordance with generally accepted accounting principles. Contractor agrees to refund the State any mutually determined overpayment of license fees resulting from said audit. State agrees to pay Contractor any mutually determined underpayment of license fees resulting from said audit. Contractor agrees to correct within thirty (30) days any incorrect prices charged by Contractor reported to Contractor in the course of an audit.
24. **GOVERNING LAW AND CHOICE OF LAW** This Agreement shall be governed by, and construed in accordance with, the laws of the State of Nebraska without regard to conflict of law principles. Any legal proceedings against the State of Nebraska regarding this Agreement shall be brought in the State of Nebraska administrative or judicial forums as defined by State law. Contractor must be in compliance with all Nebraska statutory and regulatory law.
25. **TIME IS OF THE ESSENCE** Time is of the essence in this Agreement. The acceptance of late performance with or without objection or reservation by the State shall not waive any rights of the State nor constitute a waiver of the requirement of timely performance of any obligations on the part of Contractor remaining to be performed

**PARTICIPATING ADDENDUM**  
**WESTERN STATES CONTRACTING ALLIANCE**  
**FACILITIES MRO Contracts**

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

MASTER PRICE AGREEMENT

**W.W. Grainger, Inc.**

Nevada Contract Number: 1862

(Hereinafter "Contractor")

And

State of Nebraska

(Hereinafter "Participating State")

Page 15 of 15

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

Participating State/Entity: State of Nebraska	Contractor: W.W. Grainger, Inc.
By: 	By: 
Name: Steve Sulck	Name: Kari Stoltz
Title: AS Materiel Administrator	Title: Government Sales Manager
Date: 07/01/11	Date: 7/7/11