

Participating Addendum Number MA 758 2500000415_MPA 348

**for
Facilities MRO and Industrial Supplies
between
State of Rhode Island
and
HD Supply Facilities Maintenance, LTD**

This Participating Addendum is entered into by State of Rhode Island ("Participating Entity") and the following Contractor (each a "Party" and collectively the "Parties") for the purpose of participating in NASPO ValuePoint Master Agreement Number MA 758 2500000415, executed by Contractor and the Commonwealth of Kentucky ("Lead State") for Facilities MRO and Industrial Supplies ("Master Agreement"):

HD Supply Facilities Maintenance, LTD ("Contractor")
3400 Cumberland Boulevard, S.E.
Atlanta, GA 30339

I. DEFINITIONS.

- a. Administrative Fee.** An amount due to the Participating Entity for administration of this Participating Addendum, as determined in accordance with this Participating Addendum.
- b. Installation Services.** The installation component of invoiced purchases for a renovation project that is a capital expense of Participating Entity or Purchasing Entity and is coded as a renovation order in Contractor's system. Installation Services are governed by the terms and conditions in a separate written agreement or quote.
- c. Promotional Products.** Products offered at less than Contractor's list price on a temporary basis as identified by a source code and is coded as a promotional Product in Contractor's system.
- d. Qualifying Sales.** All invoiced purchases of Products by a Participating Entity or Purchasing Entity, excluding the following: products and services in categories not awarded under the Master Agreement, returns, purchases by third-party contractors, subcontractors, or service providers on behalf of or for the benefit of Purchasing Entities, invoices unpaid by the applicable invoice due date, purchases paid with The Home Depot ProPurchase card or any fee-bearing payment method, such as a credit card, and purchases of items sold through The Home Depot retail stores (in-store and online), Installation Services, Promotional Products, and Special Orders.
- e. Special Orders.** Products not listed on Contractor's website that are designated by a 5-digit part number (not the standard 6-digit part number) and which are shipped directly from the Product manufacturer.

II. PARTICIPATING ADDENDUM CONTACTS.

Contractor's contact for this Participating Addendum is:

Vasanti Subramanian
Strategic Account Executive
470-586-6337
Vasanti.brandl@hdsupply.com

Participating Entity's contact for this Participating Addendum is:

Katherine Missell
Assistant Administrator, Contracts and Specifications
Katherine.missell@purchasing.ri.gov
401-574-8114

- III. TERM.** This Participating Addendum is effective as of the date of the last signature below or 12.1.2024 whichever is later, and will terminate upon termination of the Master Agreement, as amended, unless the Participating Addendum is terminated sooner in accordance with the terms set forth herein.

- IV. PARTICIPATION AND USAGE.** This Participating Addendum may be used by all state agencies, institutions of higher education, cities, counties, districts, and other political subdivisions of the state, and nonprofit

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organizations within the state if authorized herein and by law. Participating Entity has sole authority to determine which entities are eligible to use this Participating Addendum.

- V. GOVERNING LAW.** The construction and effect of this Participating Addendum and any Orders placed hereunder will be governed by, and construed in accordance with, Participating Entity's laws.
- VI. SCOPE.** Except as otherwise stated herein, this Participating Addendum incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to Contractor and Participating Entity and Purchasing Entities.
 - a. Products.** All products available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
 - b. Services.** All services available through the Master Agreement may be offered and sold by Contractor to Purchasing Entities.
 - c.** Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum.
 - e. The following changes are modifying or supplementing the Master Agreement terms and conditions:**
 - i. Any Purchase Agreement arising from a Participating Addendum shall be subject to the Rhode Island "State Purchases Act", R. I. Gen. Laws § 37-2-1, et. seq.**
 - ii. The Rhode Island Procurement Regulations and the Rhode Island General Conditions of Purchase located at <https://rules.sos.ri.gov/regulations/part/220-30-00-13> are hereby incorporated into this Participating Addendum.**
 - iii. General Conditions Addendum A, Schedule A1: <https://www.ridop.ri.gov/documents/general-conditions-addendum-a.pdf>.**
 - iv. Jurisdiction and venue for any lawsuits arising here from shall be in the Providence Superior Court and shall be governed by the laws of the State of Rhode Island without reference to its principles of conflicts of laws.**
 - v. Vendor(s) must register in Ocean State Procures (OSPTM) before a Participating Addendum may be executed.**
- VII. Any conflict between this Participating Addendum and the Master Agreement will be resolved in favor of the Participating Addendum.** The terms of this Participating Addendum, including those modifying or adding to the terms of the Master Agreement, apply only to the Parties and shall have no effect on Contractor's participating addenda with other participating entities or Contractor's Master Agreement with the Lead State.
- VIII. ORDERS.** Purchasing Entities may place Orders under this Participating Addendum by referencing the Participating Addendum Number on an Order. Each Order placed under this Participating Addendum is subject to the pricing and terms set forth herein and in the Master Agreement, including applicable discounts, reporting requirements, and payment of administrative fees to NASPO ValuePoint and Participating Entity, if applicable.
- IX. PARTICIPATING ENTITY REPORTING REQUIREMENTS AND ADMINISTRATIVE FEE.** *In 2017, the General Assembly amended the "State Purchases Act", R. I. Gen. Laws § 37-2-12 (b) to authorize the Chief Purchasing Officer to establish, charge and collect from vendors listed on master price agreements ("MPA") a contract administrative fee not to exceed one percent (1%) of the total value of the annual spend against their MPA contracts. All contract administrative fees collected from MPA vendors shall be deposited into a restricted receipt account which shall be used for the purposes of implementing and maintaining an online eProcurement system and other costs related to State procurement. In accordance with this legislative*

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initiative the Division of Purchases is upgrading the State procurement system through the purchase and installation of an eProcurement system. The contract administrative fee shall be applicable to all purchase orders issued relative to State MPA contracts. Therefore, effective January 1, 2020, all MPA contracts shall be assessed the 1% contract administrative fee.

- Quarterly Reporting and Administrative Fee Schedule: Usage reports are due within forty-five(45) days following the end of quarter close. The usage report and Administrative Fee submission schedule is outlined in the table below. All reporting entries are based on Qualifying Sales.

USAGE REPORT PROCESSING MONTH	USAGE REPORTS DUE BY	ADMINISTRATIVE FEE PAYMENT DUE BY
JANUARY 1 – MARCH 31	APRIL 30	MAY 31
APRIL 1 – JUNE 30	JULY 31	AUGUST 31
JULY 1 – SEPTEMBER 30	OCTOBER 31	NOVEMBER 30
OCTOBER 1 – DECEMBER 31	JANUARY 31	FEBRUARY 28

- X. FEDERAL FUNDING REQUIREMENTS.** Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. When applicable, a Purchasing Entity will identify in the Order any alternative or additional requirements related to the use of federal funds. By accepting the Order, Contractor agrees to comply with the requirements set forth therein.
- XI. INFORMATION TECHNOLOGY STANDARDS.** (If Applicable)
- XII. ATTACHMENTS.** This Participating Addendum includes the following attachments:
- Updated Participating Addendum including State of Rhode Island terms and conditions
 - HD Supply Facilities Maintenance, LTD - Description of Goods and/or Services and Discount Percentages
- XIII. NOTICE.** Any notice required herein shall be sent via electronic mail, personal delivery, overnight courier, registered or certified U.S. Mail, return receipt requested, to the following:
- For Contractor:

Vasanti Subramanian
Strategic Account Executive
470-586-6337
Vasanti.brandl@hdsupply.com

For Participating Entity:

Katherine Missell
Assistant Administrator, Contracts and Specifications
Katherine.missell@purchasing.ri.gov
401-574-8114
- XIV. SUBMISSION OF PARTICIPATING ADDENDUM TO NASPO VALUEPOINT.** Upon execution, Contractor shall promptly email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. The Parties acknowledge and agree that the Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

XV. WARRANTY.

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- a. **Disclaimer of Warranty.** Contractor is a reseller of Products only, and as such does not provide any warranty for the Products it supplies hereunder. Notwithstanding this As-Is limitation, Contractor shall pass through to Participating Entity or Purchasing Entity any transferable manufacturer's standard warranties with respect to Products purchased hereunder. EXCEPT AS SET FORTH HEREIN AND APPLICABLE, NO WARRANTY OR AFFIRMATION OF FACT OR DESCRIPTION, EXPRESS OR IMPLIED, IS MADE OR AUTHORIZED BY CONTRACTOR. PARTICIPATING ENTITY OR PURCHASING ENTITY AND PERSONS CLAIMING THROUGH PARTICIPATING ENTITY OR PURCHASING ENTITY (COLLECTIVELY, "CLAIMANT") SHALL SEEK RECOURSE EXCLUSIVELY FROM THE RELEVANT MANUFACTURER(S) IN CONNECTION WITH ANY DEFECTS IN OR FAILURES OF PRODUCTS, AND THIS SHALL BE THE EXCLUSIVE RECOURSE OF CLAIMANT FOR DEFECTIVE PRODUCTS, WHETHER THE CLAIM SHALL SOUND IN CONTRACT, TORT, STRICT LIABILITY, PURSUANT TO STATUTE, OR FOR NEGLIGENCE. PARTICIPATING ENTITY AND PURCHASING ENTITY, SHALL PASS THESE TERMS AND SUBSEQUENT BUYERS AND USERS OF PRODUCTS. CONTRACTOR EXCLUDES AND DISCLAIMS ALL OTHER EXPRESS AND IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS. CONTRACTOR ASSUMES NO RESPONSIBILITY WHATSOEVER FOR INSTALLATION OF PRODUCTS, USE, MISUSE, ALTERATION OR MODIFICATION OF PRODUCTS, OR CONTRACTOR'S INTERPRETATION OF PLANS OR SPECIFICATIONS PROVIDED BY PARTICIPATING ENTITY OR PURCHASING ENTITY. CONTRACTOR DOES NOT CERTIFY OR GUARANTEE THAT ANY PRODUCTS COMPLY WITH ANY STATUTES, LAWS, CODES, ORDINANCES OR REGULATIONS.
- b. **Warranty Solutions.** Contractor agrees to provide assistance to any Participating Entity or Purchasing Entity with any manufacturer's warranty process through contractor's Warranty Solutions service. Warranty Solutions may be reached via email at fmwarrantysolutions@hdsupply.com or via phone at 1.800.782.4154.

XVI. LIMITATIONS OF LIABILITY. EXCEPT FOR CONTRACTOR'S INDEMNITY OBLIGATIONS HEREUNDER, TO THE EXTENT NOT PROHIBITED BY APPLICABLE LAW, IN NO EVENT, WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, ARISING DIRECTLY OR INDIRECTLY OUT OF THE PERFORMANCE OR BREACH OF THESE TERMS, SHALL CONTRACTOR BE LIABLE FOR (a) ANY INCIDENTAL, INDIRECT, PUNITIVE, SPECIAL, CONSEQUENTIAL OR SIMILAR DAMAGES SUCH AS LOSS OF USE, LOST PROFITS, ATTORNEYS' FEES OR DELAY DAMAGES, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR CAUSED BY CONTRACTOR'S BREACH OF THIS AGREEMENT, (b) ANY CLAIM THAT PROPERLY IS A CLAIM AGAINST A MANUFACTURER, OR (c) ANY AMOUNT EXCEEDING THE AMOUNT PAID TO CONTRACTOR FOR GOODS FURNISHED TO PURCHASING ENTITY THAT ARE THE SUBJECT OF SUCH CLAIM(S). ALL CLAIMS MUST BE BROUGHT WITHIN ONE (1) YEAR OF ACCRUAL OF A CAUSE OF ACTION.

XVII. RETURN POLICY. Contractor will accept returned Product in its original packaging up to 90 days from the date of purchase. Damaged items and/or short shipped orders must be reported to Contractor within three business days of receipt. Some items cannot be returned to Contractor. These include:

- Customized Orders, such as custom made-to-order and fabricated items
- Ships From Manufacturer items
- Hazardous materials
- Products shipped outside the continental United States
- Special orders, such as noncatalog items and volume purchases

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- Warranty items

SIGNATURE

The undersigned for each Party represents and warrants that this Participating Addendum is a valid and legal agreement binding on the Party and enforceable in accordance with the Participating Addendum's terms and that the undersigned is duly authorized and has legal capacity to execute and deliver this Participating Addendum and bind the Party hereto.

IN WITNESS WHEREOF, the Parties have executed this Participating Addendum.

CONTRACTOR: HD Supply Facilities Maintenance, Ltd. PARTICIPATING ENTITY:

DocuSigned by:

Bruce Reifsteck
6083B7EBC778455...
Signature

Bruce Reifsteck

Printed Name

Vice President, Government Housing.

Title

1/2/2025

Date

Signature

Jay Hauser

Printed Name

Purchasing Agent, State of Rhode Island

Title

01/08/2025

Date