

**Participating Addendum to the Western States Contracting  
Alliance Cooperative Contract for Facilities MRO  
Acting by and through the State of Nevada Contract Number 1862  
between the Commonwealth of Pennsylvania and  
MSC Industrial Supply Company**

**THIS PARTICIPATING ADDENDUM** to the Western States Contracting Alliance (herein "WSCA") Cooperative Contract for Facilities MRO supplies acting by and through the State of Nevada Contract Number 1862 (herein "WSCA MRO Contract") is hereby entered into between the Commonwealth of Pennsylvania (herein "Commonwealth"), Department of General Services (herein "Department"), located at 515 North Office Building, Harrisburg, Pennsylvania 17125-0001, and MSC Industrial Supply Company (herein "MSC"), located at 75 Maxess Road, Melville, New York, 11747, to allow for the Commonwealth's use of the WSCA MRO Contract to purchase of certain MRO supplies.

**WHEREAS**, in accordance with Section 301(a) of the Commonwealth Procurement Code, 62 Pa. C.S. § 301, the Department, acting as purchasing agent for executive and independent agencies for the procurement of materials and supplies needed by those agencies for the maintenance, repair and operation of agency facilities (herein "MRO supplies"); and

**WHEREAS**, WSCA is an alliance of fifteen western states that formed for the purpose of establishing cooperative, multistate contracts for use by its members and other non-member states that wish to participate in the contracts; and

**WHEREAS**, in 2010, WSCA, by and through the State of Nevada as the lead state, issued Request for Proposals No. 1862 for MRO supplies in accordance with the laws of Nevada; and

**WHEREAS**, as a result of the RFP, in February 2011, Nevada awarded and executed a contract with MSC for all categories of MRO supplies for all the participating states; and

**WHEREAS**, Section 1902 of the Commonwealth Procurement Code (62 Pa. C.S. § 1902) authorizes the Department to enter into cooperative purchasing agreements for the procurement of any supplies, services, or construction; and

**WHEREAS**, the Department has determined that it is in the best interest of the executive and independent agencies to have the option of purchasing certain MRO supplies that are not currently on any existing Department statewide requirements contract through the WSCA MRO Contract for purchases over the threshold for small, no bid procurements; and

**WHEREAS**, the Department and MSC have agreed to enter into this Participating Addendum to the WSCA MRO Contract.

**NOW THEREFORE**, intending to be legally bound hereby, the Department and MSC agree as follows:

1. This Participating Addendum covers the WSCA Facilities MRO Contracts lead by the State of Nevada for use by state agencies and registered members of the Department's COSTARS Program. Use of this contract is at the option of the state agency or

COSTARS member. While the award to MSC in Master Price Agreement 1862 is for all categories, the Commonwealth is only opting to allow purchases from the categories listed below. For certain categories, purchases from the WSCA Facilities MRO Contract are limited to procurements not exceeding \$5,000. Repair services of any type are not included in this Participating Addendum. Any category included in the WSCA Facilities MRO Contract not specifically included below is not included in this Participating Addendum. The MSC website for the Commonwealth shall be limited to only those categories that are included under this Participating Addendum.

<b>Category</b>	<b>Limitations</b>
HVAC	Use of Contract limited to procurements not exceeding \$5,000
Air Filters	Use of Contract limited to procurements not exceeding \$5,000
Material Handling	None
Motors and Accessories	Use of Contract limited to procurements not exceeding \$5,000
Paint and Accessories	Use of Contract limited to procurements not exceeding \$5,000
Plumbing	Use of Contract limited to procurements not exceeding \$5,000
Pneumatic Tools	None
Power Tools	None
Hand Tools	None
Welding and Soldering	None

The Commonwealth reserves the right through mutual agreement with MSC to modify the limitations listed with the categories and/or add and delete categories included in the WSCA Facilities MRO Contract. Such a change to the Participating Addendum shall not require an amendment to the Participating Addendum but shall be accomplished through a change notice. The MSC website for the Commonwealth shall be limited to only those categories that are included under this Participating Addendum.

2. **Primary Contacts:** The primary government contact individuals for this Participating Addendum are as follows (or their named successors):

- a. **Lead State:**

Gail Burchett  
Nevada Department of Administration, Purchasing Division  
515 E. Musser Street, 3<sup>rd</sup> Floor  
Carson City, Nevada 89701  
Telephone: (775) 684-0172  
Facsimile: (775) 684-0188  
E-mail: [gburchet@purchasing.state.nv.us](mailto:gburchet@purchasing.state.nv.us)

- b. **Contractor:**

David Ottenstein, State Government Team Manager  
MSC Industrial Supply Company  
75 Maxess Road  
Melville, New York 11747  
Telephone: (904) 519-6002  
Facsimile: (904) 519-6003  
E-mail: [ottenstd@mscdirect.com](mailto:ottenstd@mscdirect.com)

**c. Commonwealth of Pennsylvania:**

Lilly Mangan, Commodity Specialist  
Bureau of Procurement  
Department of General Services  
555 Walnut Street, 6<sup>th</sup> Floor  
Harrisburg, Pennsylvania 17101-1914  
Telephone: (717) 346-3846  
Facsimile: (717) 346-3820  
E-mail: [lmangan@pa.gov](mailto:lmangan@pa.gov)

3. MSC will provide the Commonwealth of Pennsylvania an administrative fee of 2% of its gross sales, less any credits, freight, and tax charged to state agencies and COSTARS members. The administrative fee will be remitted to the Commonwealth on a quarterly basis.
4. The Department will establish a statewide requirements contract for this Participating Addendum to facilitate ordering from state agencies and COSTARS members. Invoices submitted for payment must include the number of the Purchase Order (if one is issued) and the WSCA Facilities MRO Lead State price agreement number which is 1862. State agencies and COSTARS members are not required to purchase from this contract.
5. This Participating Addendum is comprised of the following documents, which are listed in order of precedence in the event of a conflict between these documents:
  - a. This Participating Addendum.
  - b. *Standard Contract Terms and Conditions* which is attached hereto as Exhibit A and made a part hereof.
  - c. WSCA Facilities MRO Contract, Lead State Contract No. 1862 and any amendments thereto.
6. The term of the Participating Addendum shall be from the Effective Date, as set forth in Paragraph 1 (Term of Contract) of the *Standard Contract Terms and Conditions* contained in Exhibit A, and shall terminate on February 28, 2014. There is one 3-year option to renew available. If WSCA exercises this renewal, this Participating shall be renewed without further action by either the Commonwealth or MSC unless either party determines that it does not desire the renewal. If that is the case, written notice shall be sent to other party no less than 60 days prior to the effective date of the renewal period.
7. While it is anticipated that most state agencies shall utilize the Commonwealth Purchasing Card when ordering from MSC under this Participating Addendum, in some instances a Purchase Order may be issued. A Purchase Order issued against this Participating Addendum constitutes MSC's authority to make delivery. All Purchase Orders received by MSC up to and including the expiration date of the Participating Addendum are acceptable and must be performed in accordance with the Participating Addendum. Each Purchase Order will be deemed to incorporate the terms and conditions set forth in the Participating Addendum.

- a. Purchase Orders will not contain “ink” signatures by the ordering agency. The electronically-printed name of the purchaser represents the signature of that individual who has the authority, on behalf of the Commonwealth, to authorize MSC to proceed.
  - b. Purchase Orders may be issued electronically or through facsimile equipment. The electronic transmission of such a purchase order shall require acknowledgement of receipt by MSC. Receipt of the electronic or facsimile transmission of the Purchase Order shall constitute receipt of an order. Orders received by MSC after 4:00 pm will be considered received the following business day.
8. This Participating Addendum shall not be a legally binding contract until the fully executed Contract No. 4400010895 has been sent to MSC. No Commonwealth employee has the authority to verbally direct the commencement of any work or delivery of any supply under this Participating Addendum prior to the Effective Date. MSC hereby waives any claim or cause of action for any service or work performed prior to the Effective Date.
- a. This Participating Addendum and any Purchase Orders issued against it will not include “ink” signatures by the Commonwealth. The electronically printed name of the Purchasing Agent represents the signature of that individual who has the authority, on behalf of the Commonwealth, to bind the Commonwealth to the terms of the Participating Addendum. If the contract output form does not have “Fully Executed” at the top of the first page and does not have the name of the Purchasing Agency in the appropriate box, the Participating Addendum has not been fully executed.
  - b. The fully-executed Participating Addendum may be sent to MSC electronically or through facsimile equipment. Receipt of the electronic or facsimile transmission of the Participating Addendum shall constitute receipt of the fully-executed Participating Addendum.
  - c. The Commonwealth and MSC specifically agree as follows:
    - i. No handwritten signature shall be required in order for the Participating Addendum to be legally enforceable.
    - ii. The parties agree that no writing shall be required in order to make the Participating Addendum legally binding, notwithstanding contrary requirements of any law. The parties hereby agree not to contest the validity or enforceability of a genuine contract or acknowledgment issued electronically under the provisions of a statute of frauds or any other applicable law relating to whether certain agreements be in writing and signed by the party bound thereby. Any genuine contract or acknowledgment issued electronically, if introduced as evidence on paper in any judicial, arbitration, mediation, or administrative proceedings, will be admissible as between the parties to the same extent and under the same conditions as other business records originated and maintained in documentary form. Neither party shall contest the admissibility of copies of a genuine contract or acknowledgments under

either the business records exception to the hearsay rule or the best evidence rule on the basis that the contract or acknowledgment were not in writing or signed by the parties. A contract or acknowledgment shall be deemed to be genuine for all purposes if it is transmitted to the location designated for such documents.

- iii. Each party will immediately take steps to verify any document that appears to be obviously garbled in transmission or improperly formatted to include re-transmission of any such document.

IN WITNESS WHEREOF, the Commonwealth and MSC have signed this Participating Addendum.

Witness:

MSC INDUSTRIAL SUPPLY COMPANY:

By: [Signature] 3/21/13  
Date  
Peter Reetz, Senior Contract Admin  
Printed Name and Title

By: [Signature] 3/21/13  
Date  
Peter E. Biagioli  
Vice President  
National Accounts & Government  
Printed Name and Title  
13-5526506  
Federal I.D. Number

**COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF GENERAL SERVICES**

By: To be affixed electronically  
Deputy Secretary for Procurement Date

**APPROVED AS TO FORM AND LEGALITY:**

To be affixed electronically  
Office of Chief Counsel Date

To be affixed electronically  
Office of General Counsel Date

To be affixed electronically  
Office of Attorney General Date

**APPROVED:**

To be affixed electronically  
State Treasurer Date