



PARTICIPATING ADDENDUM

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Master Agreement #: **OK-MA-145-21-400**

Contractor: **KUSTOM SIGNALS, INC.**

Participating Entity: **STATE OF SOUTH CAROLINA**

Contract Number: **4400033980**

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

Contractor

Name:	Jim Lindquist, Marketing & Sales Support Manager
Address:	10901 W 84th Terrace, Suite 100 Lenexa, KS 66214
Telephone:	O: 800-458-7866 ext. 3023 D: 913-428-3283
Email:	sales@kustomsignals.com

Participating Entity

Name:	Yolanda Cohen, Procurement Manager II
Address:	1201 Main St, Ste 600, Columbia SC 29201
Telephone:	803-737-9854
Email:	ycohen@mmo.sc.gov

MASTER AGREEMENT TERMS AND CONDITIONS:

1. Scope: This addendum covers the *Public Safety/Law Enforcement Video Products, Services and Solutions* procurement led by the *State of Oklahoma* for use by state agencies and other entities located in the Participating State of South Carolina authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official. Except as otherwise stated herein, this Participating Addendum (PA) incorporates the scope, pricing, terms, and conditions of the Master Agreement and the rights and obligations set forth therein as applied to the Contractor and Participating Entity and Purchasing Entities.

This addendum allows for purchase of the following Public Safety/Law Enforcement Video Products, Services and Solutions:



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Category 1: Body Worn Video Cameras and Recording Devices

Category 2: Vehicle Mounted Video and Recording Devices

Category 5: Video Storage, Data Security, Software and Peripherals (This PA Does Not Include or Allow Cloud)

SC Exclusions from this Participation Addendum

- Category 3 – Automated License Plate Readers and Recording Devices (Not Awarded by NASPO)
 - Category 4 – Interview / Interrogation Room Video and Recording (Not Awarded by NASPO)
 - Commercial off-the-Shelf (COTS) Software except the operating software at time of purchase.
 - Software as a Service (SaaS)
 - General Consulting and Professional Services
2. **Participation**: Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and Pursuant to Section 11-35-4810, South Carolina public procurement units, both state and local (as defined by S.C. Code Ann. § 11-35-4610(5), as amended) are authorized to participate in cooperative purchasing.

Pursuant to Section 11-35-510 of the South Carolina Code of Laws, ITMO is authorized to act as the statutory procurement agent for every state governmental body (as defined by S.C. Code Ann. § 11-35-310(18), as amended). Consistent with its statutory authority, ITMO is acting solely in a representative capacity and on behalf of such state governmental bodies.

Participation by local public procurement units (as defined by S.C. Code Ann. § 11-35-4610(3), as amended) in the Master Service Agreement is optional. By submitting an order and receiving delivery of an item pursuant to the Master Service Agreement, a local public procurement unit manifests its intent to be and is bound by the Master Service Agreement, including this addendum, unless the local public procurement unit has entered into a separate Participating Addendum.

Each SC Participant's obligations and liabilities are independent of any other SC Participant's obligations and liabilities. SC Participants are not obligated for any order submitted by another SC Participant and do not incur any liability with regard to any other SC Participant. ITMO is acting solely on behalf of SC governmental bodies and bears no liability for any damages that any party may incur with regard to the Master Service Agreement.

a. **Contractor Partners**. All subcontractors, dealers, distributors, resellers, and other partners identified on Contractor's NASPO ValuePoint webpage as authorized to provide Products and Services to Participating Entity may provide Products and Services to users of this Participating Addendum. Contractor will ensure that the participation of Contractor's subcontractors, dealers, distributors, resellers, and other partners is in accordance with the terms and conditions set forth in the Master Agreement and in this Participating Addendum.

All Contractor's Fulfillment Partners, as defined in the Master Agreement, authorized in the State of South Carolina, as shown on the dedicated Contractor's (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Price Agreement, e.g. for direct



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order taking, processing, fulfillment or provisioning. The Fulfillment Partners' participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement. Orders and payment are issued by the Purchasing Entity direct to the named Fulfillment Partner under the Contractor's Fulfillment Subcontractor Program. Orders must include the Participating State/Entity Contract Number.

Subject to approval of the Participating State/Entity, and at the sole discretion of Contractor, Contractor may add Fulfillment Partners at any time during the term of this Participating Addendum. Contractor may designate a minimum of two Fulfillment Partners and no set maximum number of Fulfillment Partners to provide sales and services support. Contractor, in its sole discretion, is not required to add, and may delete upon thirty (30) days written notice, any Fulfillment Partner who does not meet Contractor's established qualifying criteria, or where the addition of the entity would violate any state or federal law or regulation.

Any amendment to the Master Agreement shall be deemed incorporated into this Participating Addendum unless the amendment is rejected by the Participating Entity in writing to Contractor within ten (10) calendar days of the amendment's effective date and is documented thereafter via written amendment hereto.

PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity. The following changes are modifying or supplementing the Master Agreement terms and conditions:

3. Order of Precedence:

1. A Participating Entity's Participating Addendum ("Participating Addendum"); A Participating Entity's Participating Addendum shall not diminish, change, or impact the rights of the Lead State with regard to the Lead State's contractual relationship with the Contractor under the Terms of Oklahoma NASPO ValuePoint Master Agreement
2. Oklahoma NASPO ValuePoint Master Agreement (includes negotiated Terms & Conditions)

These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to the Master Agreement as an Exhibit or Attachment. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the Solicitation, or terms listed or referenced on the Contractor's website, in the Contractor's quotation/sales order or in similar documents subsequently provided by the Contractor. The solicitation language prevails unless a mutually agreed exception has been negotiated. Any different or additional provisions in purchase orders, invoices or similar documents issued by Participating Entity or Contractor at any time are unenforceable. Except as otherwise provided in this Participating Addendum, no modification to this Participating Addendum will be binding unless in writing and signed by an authorized representative of each party.



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4. Deletions from Master Agreement: The following provisions of the Master Agreement do not form a part of the contract with the State of South Carolina or any of its public procurement units:

¶6.2 "Payment" on page 9

5. Definitions:

"Authorized Agent" All authority regarding the conduct of this procurement is vested solely with the responsible Procurement Officer. Unless specifically delegated in writing, the Procurement Officer is the only government official authorized to bind the government with regard to this procurement. (S.C. Code Ann. § 11-35-2015)

"Authority" means the South Carolina State Fiscal Accountability Authority. (S.C. Code Ann. § 11-35-310(2))

"Procurement Officer" means the person, or his successor, identified as such in this Participating Addendum. (S.C. Code Ann. § 11-35-310(26))

"SC Participant(s)" means all participating South Carolina public procurement units (as defined by S.C. Code Ann. § 11-35-4610(5), as amended) or governmental bodies (as defined by S.C. Code Ann. § 11-35-310(18), as amended).

"State" means the State of South Carolina and its Using Governmental Units. (S.C. Code Ann. § 11-35-310(34))

"You and Your" means contractor.

"Using Governmental Unit" means all South Carolina Public Procurement Units [11-35-4610(5)] eligible to purchase under this contract.

6. Authority as Procurement Agent: The Procurement Officer is an employee of the Authority acting on behalf of the Using Governmental Unit(s) pursuant to the Consolidated Procurement Code. Any contracts awarded as a result of this procurement are between the Contractor and the Using Governmental Units(s). The Authority is not a party to such contracts, unless and to the extent that the Authority is a using governmental unit, and bears no liability for any party's losses arising out of or relating in any way to the contract. (S.C. Code Ann. § 11-35-2015)
7. South Carolina Prompt Payment Statute: The obligations of any SC Participant are governed by Section 11-35-45 of the South Carolina Code of Laws, if the participant is a "governmental body," as that term is defined in Section 11-35-310(18).



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8. 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.
9. SC Registered Distributor: Vendor agrees to distribute its products to South Carolina public procurement units through vendors registered with the South Carolina Secretary of State as an authorized South Carolina vendor when available <http://www.scbos.sc.gov>. (S.C. Code Ann. § 11-35-4810(4))
10. Open Trade: During the contract term, including any renewals or extensions, Contractor will not engage in the boycott of a person or an entity based in or doing business with a jurisdiction with whom South Carolina can enjoy open trade, as defined in SC Code Section 11-35-5300.
11. Choice of Law: The Agreement, any dispute, claim, or controversy relating to the Agreement, and all the rights and obligations of the parties shall, in all respects, be interpreted, construed, enforced and governed by and under the laws of the State of South Carolina, except its choice of law rules. As used in this paragraph, the term "Agreement" means any transaction or agreement arising out of, relating to, or contemplated by the solicitation.
12. Statewide Term Contract - Acceptance of Offers 10% Below Price: Pursuant to Section 11-35-310(35), the state may purchase items available on this contract from a third party (an "alternate vendor") if the alternate vendor offers a price that is at least ten percent less than the price established by this contract and, after being offered an opportunity, you decline to meet the alternate vendor's price. With regard to the items acquired, the alternate vendor must agree to be bound by all the terms and conditions of this contract. All acquisition pursuant to this clause must be documented by the procurement officer using the form found at this link: <https://procurement.sc.gov/files/PurchaseOrderTenPercentFormApr2015.pdf>
13. Choice-of-Forum. All disputes, claims, or controversies relating to the contract shall be resolved exclusively by the appropriate Chief Procurement Officer in accordance with Title 11, Chapter 35, Article 17 of the South Carolina Code of Laws, or in the absence of jurisdiction, only in the Court of Common Pleas for, or a federal court located in, Richland County, State of South Carolina. (2) Service of Process. Contractor consents that any papers, notices, or process necessary or proper for the initiation or continuation of any disputes, claims, or controversies relating to the contract; for any court action in connection therewith; or for the entry of judgment on any award made, may be served on Contractor by certified mail (return receipt requested) addressed to Contractor at the address provided in the contract or by personal service or by any other manner that is permitted by law, in or outside South Carolina. Notice by certified mail is deemed duly given upon deposit in the United States mail.
14. No Indemnity or Defense: Any term or condition is void to the extent it requires the State to indemnify, defend, or pay attorney's fees to anyone for any reason. (S.C. Code Ann. § 11-35-2050)



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15. EFT Information: The Contractor must furnish to the State Treasurer's Office information necessary for making a payment by electronic funds transfer (EFT). You may do this by completing STO Form 4 and filing it with the STO. Additional information is available at the STO's website at <https://treasurer.sc.gov/>. The Contractor is responsible for the currency, accuracy and completeness of the EFT information. Updating EFT information may not be used to accomplish an assignment of the right to payment, does not alter the terms and conditions of this contract, and is not a substitute for a properly executed contractual document. (S.C. Code Ann. § 11-35-45(c))
16. Payment & Interest:
 - (a) The State shall pay the Contractor, after the submission of proper invoices or vouchers, the prices stipulated in this contract for supplies delivered and accepted or services rendered and accepted, less any deductions provided in this contract. Unless otherwise specified herein, including the purchase order, payment shall not be made on partial deliveries accepted by the Government.
 - (b) Unless otherwise provided herein, including the purchase order, payment will be made by electronic funds transfer (EFT). See clause titled "EFT Information."
 - (c) Notwithstanding any other provision, payment shall be made in accordance with S.C. Code Section 11-35-45, or Chapter 6 of Title 29 (real property improvements) when applicable, which provides the Contractor's exclusive means of recovering any type of interest from the Owner. Contractor waives imposition of an interest penalty unless the invoice submitted specifies that the late penalty is applicable. Except as set forth in this paragraph, the State shall not be liable for the payment of interest on any debt or claim arising out of or related to this contract for any reason.
 - (d) Amounts due to the State shall bear interest at the rate of interest established by the South Carolina Comptroller General pursuant to Section 11-35-45 ("an amount not to exceed fifteen percent each year"), as amended, unless otherwise required by Section 29-6-30.
 - (e) Any other basis for interest, including but not limited to general (pre- and post-judgment) or specific interest statutes, including S.C. Code Ann. Section 34-31-20, are expressly waived by both parties. If a court, despite this agreement and waiver, requires that interest be paid on any debt by either party other than as provided by items (c) and (d) above, the parties further agree that the applicable interest rate for any given calendar year shall be the lowest prime rate as listed in the first edition of the Wall Street Journal published for each year, applied as simple interest without compounding.
 - (f) The State shall have all of its common law, equitable and statutory rights of set-off.
17. Drug Free Work Place Certification: Contractor will comply with all applicable provisions of The Drug-free Workplace Act, Title 44, Chapter 107 of the South Carolina Code of Laws, as amended.
18. Code of Conduct: When the Contractor is working under provisions of this contract at facilities controlled by State agencies or other UGUs, Contractor agrees to follow and enforce the Code of Conduct Policy of these entities.
19. Publicity: Contractor shall not publish any comments or quotes by State employees, or include the State in either news releases or a published list of customers, without the prior written approval of the Procurement Officer.



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20. Purchase Orders: Contractor shall not perform any work prior to the receipt of a purchase order from the using governmental unit. The using governmental unit shall order any supplies or services to be furnished under this contract by issuing a purchase order. Purchase orders may be used to elect any options available under this contract, e.g., quantity, item, delivery date, payment method, but are subject to all terms and conditions of this contract. Purchase orders may be electronic. No particular form is required. An order placed pursuant to the purchasing card provision qualifies as a purchase order.
21. Survival of Obligations: The Parties' rights and obligations which, by their nature, would continue beyond the termination, cancellation, rejection, or expiration of this contract shall survive such termination, cancellation, rejection, or expiration, including, but not limited to, the rights and obligations created by the following clauses: Indemnification - Third Party Claims, Intellectual Property Indemnification, and any provisions regarding warranty or audit.
22. Taxes: Any tax the contractor may be required to collect or pay upon the sale, use or delivery of the products shall be paid by the State, and such sums shall be due and payable to the contractor upon acceptance. Any personal property taxes levied after delivery shall be paid by the State. It shall be solely the State's obligation, after payment to contractor, to challenge the applicability of any tax by negotiation with, or action against, the taxing authority. Contractor agrees to refund any tax collected, which is subsequently determined not to be proper and for which a refund has been paid to contractor by the taxing authority. In the event that the contractor fails to pay, or delays in paying, to any taxing authorities, sums paid by the State to contractor, contractor shall be liable to the State for any loss (such as the assessment of additional interest) caused by virtue of this failure or delay. Taxes based on Contractor's net income or assets shall be the sole responsibility of the contractor. (S.C. Code Ann. Title 12, Chapter 36)
23. Statewide Term Contract – Contract Limitations: No sales may be made pursuant to this contract for any item or service that is not expressly included in the Scope. No sales may be made pursuant to this contract after expiration of this contract. Violation of this provision may result in termination of this contract and may subject contractor to suspension or debarment.
24. Relationship of Using Governmental Units: Each Using Governmental Unit's obligations and liabilities are independent of every other Using Governmental Unit's obligations and liabilities. No Using Governmental Unit shall be responsible for any other Using Governmental Unit's act or failure to act.
25. Item Substitution: No Substitutes will be allowed on Purchase Orders received from South Carolina procurement units without written permission from the issuing procurement unit.
26. Administrative Services Fee:
 - (a) Procurement Services (PS) establishes and maintains master State contracts for the benefit of all South Carolina state and local public entities. These contracts allow all public entities both to maximize the State's purchasing power by aggregating their requirements and to benefit from increased efficiencies in the acquisition process. Procurement Services' cost for this central purchasing activity is offset by an administrative fee which each contractor includes in its contract pricing (though not



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separately itemized or invoiced) and is paid to the vendor by each participating public entity. The contractor collects the fee as a fiduciary for the State and remits the same as calculated in accordance with the clause titled "ADMINISTRATIVE SERVICES FEE – CALCULATION." The price stated in the contractor's bid or proposal must include all amounts necessary for contractor to meet this obligation. (b) As used in this clause, the term "reporting period" means each full calendar quarter (Jan. -- Mar., Apr. -- Jun., Jul. -- Sep., and Oct. -- Dec.) and any remaining periods less than a full calendar quarter during the term of this contract. For each reporting period, contractor shall report to PS its total sales pursuant to this contract for the period and shall remit the fee to the PS Reports Manager. Payment for each reporting period is due no later than the last day of the month immediately following the end of the reporting period (Example: payment for the reporting period ending March 31 is due April 30). If the amount due for a reporting period is less than \$10.00, no payment is required. The procurement officer will provide contractor an information packet, including a detailed explanation of reporting and payment requirements, within fifteen (15) calendar days following contract award. You may contact the Reports Manager at:

Procurement Services Division

Attn: Reports Manager

1201 Main Street, Suite 600

Columbia, SC 29201

Phone: (803) 737-0600 (ask to speak to the Reports Manager)

Failure to receive the information packet does not relieve contractor from its obligations hereunder.

(c) Contractor shall submit a usage report for each reporting period, even if no payment is due for the reporting period. The usage report shall include any information requested by PS to verify the amount due. At a minimum, each usage report shall reflect the following information for the applicable reporting period: contractor's name, contract number, contract description, reporting period/quarter, total dollar value of sales (excluding sales taxes and showing any adjustments for credits or refunds), total number of units (if practicable), and the number, date, and amount of contractor's check to PS. Unless otherwise specified by the reports manager, the usage report shall be submitted electronically according to instructions in the information packet. If the reports manager requires the contractor to provide a more detailed usage report, the reports manager will work directly with the contractor to determine the appropriate content and format of the report.

(d) During the term of this contract and for a period of three years thereafter, PS or its authorized representatives shall be afforded access at reasonable times to contractor's records (including, without limitation, bank statements, deposits, checks; invoices; correspondence; ledgers; receipts; transmittals) in order to audit all transactions involving goods sold, work performed, or fees due pursuant to this contract. If the audit indicates that contractor has materially underpaid PS, then contractor shall remit the balance found to be due (including any amounts assessed pursuant to subparagraph (e)) and reimburse PS for all costs of the audit.

(e) Payments of the fee which are due and unpaid by the contractor (including amounts disclosed by



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audit) shall accrue interest as provided in the Payment and Interest clause for amounts due to the State. In addition to the fee and interest, contractor agrees to pay to PS its reasonable expenses of collection, including costs and attorneys' fees (and fees for inside counsel), whether or not PS commences legal action.

(f) If the contractor fails to (i) timely submit accurate usage reports; (ii) remit to PS the fee when due; or (iii) promptly and fully cooperate with an audit request, the State may, without prejudice to any other remedy available to the State, take any one or more of the following actions:

(1) direct the contractor to not accept any further orders under the contract until PS determines that the cause for such direction has been eliminated;

(2) terminate this contract;

(3) direct the contractor to not accept any further orders under any other master State contract established by PS until PS determines that the cause for such direction has been eliminated.

(g) For purposes of this clause, PS is intended as a third-party beneficiary of this contract.

[03-3090-1]

(h) Reports MUST reference the SC Participating Addendum number **4400033980** to assure accurate accounting of purchases under this contract and reported administrative fees. Each remittance will include the period covered and the contract number.

27. Administrative Services Fee – Calculation – ITMO:

For each reporting period, Contractor shall pay to PS a fee equal to one (1.0%) percent of the total dollar amount (excluding sales taxes and adjusted for credits or refunds) of purchases made by any public procurement unit from Contractor pursuant to this contract.

[03-3095-1]

28. 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.

Purchasers may place orders directly only through Contractor's approved Fulfillment Partners for products or services as authorized under this Participating Addendum. Only those Fulfillment Partners approved and listed during the term of Participating Addendum at Contractor's website are authorized to directly provide quotes, receive purchase orders, invoice Customers, and receive payment from purchasers on Contractor's behalf.

Except as otherwise set forth in the qualifying criteria, Contractor will not, directly or indirectly, restrict any Fulfillment Partner's participation or ability to quote pricing for a Customer. The approved Fulfillment Partners will not offer less favorable pricing discounts than the contract discounts established by



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Contractor under the Master Agreement. However, the Fulfillment Partner may offer any additional incremental discounts to Participating State/Entity, and such additional discounts if offered, may be provided in the discretion and as the sole legal obligation of the approved Fulfillment Partner to the Participating State/Entity.

29. Term of Contract: The term of this Participating Addendum shall begin on February 16, 2024. The term shall continue for a period ending on the Termination Date of the Master Agreement or when this Participating Addendum is terminated in accordance with the Master Agreement, whichever shall occur first.
30. Assignment, Novation, And Change of Name, Identity, or Structure: (a) Contractor shall not assign this contract, or its rights, obligations, or any other interest arising from this contract, or delegate any of its performance obligations, without the express written consent of the responsible procurement officer. The foregoing restriction does not apply to a transfer that occurs by operation of law (e.g., bankruptcy; corporate reorganizations and consolidations, but not including partial asset sales). Notwithstanding the foregoing, contractor may assign monies receivable under the contract provided that the state shall have no obligation to make payment to an assignee until thirty days after contractor (not the assignee) has provided the responsible procurement officer with (i) proof of the assignment, (ii) the identity (by contract number) of the specific state contract to which the assignment applies, and (iii) the name of the assignee and the exact address or account information to which assigned payments should be made. (b) If contractor amends, modifies, or otherwise changes its name, its identity (including its trade name), or its corporate, partnership or other structure, or its FEIN, contractor shall provide the procurement officer prompt written notice of such change. (c) Any name change, transfer, assignment, or novation is subject to the conditions and approval required by Regulation 19-445.2180, which does not restrict transfers by operation of law.
31. Bankruptcy - General: (a) Notice: In the event the Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Contractor agrees to furnish written notification of the bankruptcy to the Using Governmental Unit. This notification shall be furnished within two (2) days of the initiation of the proceedings relating to the bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of all State contracts against which final payment has not been made. This obligation remains in effect until final payment under this Contract. (b) Termination. This contract is voidable and subject to immediate termination by the State upon the contractor's insolvency, including the filing of proceedings in bankruptcy.
32. Statewide Term Contract: This PA is established as a term contract (as defined in Section 11-35-310(37)) available for use by all South Carolina public procurement units (as defined in Section 11-35-4610(5)). Use by state governmental bodies (as defined in Section 11-35-310(18)), which includes most state agencies, is mandatory except under limited circumstances, as provided in Section 11-35-310(37). See clause entitled "Acceptance of Offers 10% Below Price." Use by local public procurement units is optional. Section 11-35-4610(3) defines local public procurement units to include any political subdivision, or unit thereof, which



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expends public funds. Section 11-35-310(24) defines the term political subdivision as all counties, municipalities, school districts, public service or special purpose districts.

33. Compliance with Laws: During the term of the contract, contractor shall comply with all applicable provisions of laws, codes, ordinances, rules, regulations, and tariffs.
34. Equal Opportunity: Contractor is referred to and shall comply with all applicable provisions, if any, of Title 41, Part 60 of the Code of Federal Regulations, including but not limited to Sections 60-1.4, 60-4.2, 60-4.3, 60-250.5(a), and 60-741.5(a), which are hereby incorporated by reference.
35. Ethics Certificate: Contractor certifies that the Contractor has and will comply with, and has not and will not, induce a person to violate Title 8, Chapter 13 of the South Carolina Code of Laws, as amended ("Ethics Act"). The following statutes require special attention: Section 8-13-700, regarding use of official position for financial gain; Section 8-13-705, regarding gifts to influence action of public official; Section 8-13-720, regarding offering money for advice or influence of action of public official; Section 8-13-755 and 8-13-760, regarding restrictions on employment by former public officials; Section 8-13-775, prohibiting public official with economic interests from acting on contracts; Section 8-13-790, regarding recovery of kickbacks; Section 8-13-1150, regarding statements to be filed by consultants; and Section 8-13-1342; regarding restrictions on contributions by Contractor to candidate who participated in awarding of contract. The state may rescind any contract and recover all amounts expended as a result of any action taken in violation of this provision. If contractor participates, directly or indirectly, in the evaluation or award of public contracts, including without limitation, change orders or task orders regarding a public contract, contractor shall, if required by law to file such a statement, provide the statement required by Section 8-13-1150 to the procurement officer at the same time the law requires the statement to be filed.
36. Insurance: Please see Master Agreement Attachment A Section XIII
37. Indemnification - Third Party Claims – General: Notwithstanding any limitation in this agreement, and to the fullest extent permitted by law, Contractor shall defend and hold harmless Indemnitees for and against any and all suits or claims of any character (and all related damages, settlement payments, attorneys' fees, costs, expenses, losses or liabilities) by a third party which are attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property arising out of or in connection with the goods or services acquired hereunder or caused in whole or in part by any act or omission of contractor, its subcontractors, their employees, workmen, servants, agents, or anyone directly or indirectly employed by them or anyone for whose acts any of them may be liable, regardless of whether or not caused in part by an Indemnitee, and whether or not such claims are made by a third party or an Indemnitee; however, if an Indemnitee's negligent act or omission is subsequently determined to be the sole proximate cause of a suit or claim, the Indemnitee shall not be entitled to indemnification hereunder. Contractor shall be given timely written notice of any suit or claim. Contractor's obligations hereunder are in no way limited by any protection afforded under workers' compensation acts, disability benefits acts, or other employee benefit acts. This clause shall not negate, abridge, or reduce any other rights or obligations of indemnity which would otherwise exist. The obligations of this paragraph shall survive termination, cancelation, or expiration of the



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parties' agreement. This provision shall be construed fairly and reasonably, neither strongly for nor against either party, and without regard to any clause regarding insurance. As used in this clause, "Indemnitees" means the State of South Carolina, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees.

38. Indemnification - Intellectual Property: (a) Without limitation and notwithstanding any provision in this agreement, Contractor shall, upon receipt of notification, defend and indemnify the State, its instrumentalities, agencies, departments, boards, political subdivisions and all their respective officers, agents and employees against all actions, proceedings or claims of any nature (and all damages, settlement payments, attorneys' fees (including inside counsel), costs, expenses, losses or liabilities attributable thereto) by any third party asserting or involving an IP right related to an acquired item. State shall allow Contractor to defend such claim so long as the defense is diligently and capably prosecuted. State shall allow Contractor to settle such claim so long as (i) all settlement payments are made by Contractor, and (ii) the settlement imposes no non-monetary obligation upon State. State shall reasonably cooperate with Contractor's defense of such claim. (b) In the event an injunction or order shall be obtained against State's use of any acquired item, or if in Contractor's opinion, the acquired item is likely to become the subject of a claim of infringement or violation of an IP right, Contractor shall, without in any way limiting the foregoing, and at its expense, either: (1) procure for State the right to continue to use, or have used, the acquired item, or (2) replace or modify the acquired item so that it becomes non-infringing but only if the modification or replacement does not adversely affect the specifications for the acquired item or its use by State. If neither (1) nor (2), above, is practical, State may require that Contractor remove the acquired item from State, refund to State any charges paid by State therefor, and take all steps necessary to have State released from any further liability. (c) Contractor's obligations under this paragraph do not apply to a claim to the extent (i) that the claim is caused by Contractor's compliance with specifications furnished by the State unless Contractor knew its compliance with the State's specifications would infringe an IP right, or (ii) that the claim is caused by Contractor's compliance with specifications furnished by the State if the State knowingly relied on a third party's IP right to develop the specifications provided to Contractor and failed to identify such product to Contractor. (d) As used in this paragraph, these terms are defined as follows: "IP right(s)" means a patent, copyright, trademark, trade secret, or any other proprietary right. "Acquired item(s)" means the rights, goods, or services furnished under this agreement. "Specification(s)" means a detailed, exact statement of particulars such as a statement prescribing materials, dimensions, and quality of work. (e) Contractor's obligations under this clause shall survive the termination, cancellation, rejection, or expiration of this Agreement. [07-7B103-1]
39. Information Security - Definitions: The following definitions are used in those clauses that cross reference this clause. **Compromise** means disclosure of information to unauthorized persons, or a violation of the security policy of a system in which unauthorized intentional or unintentional disclosure, modification, destruction, or loss of an object may have occurred. Without limitation, the term "**compromise**" includes copying the data through covert network channels, or copying the data to unauthorized media, or disclosure of information in violation of any obligation imposed by this contract. **Data** means a subset of information in an electronic format that allows it to be retrieved or transmitted. **Government information** means information (i) provided to Contractor by, or generated by Contractor for, the using governmental unit, or

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(ii) acquired or accessed by Contractor as a result of performing the Work. Without limiting the foregoing, government information includes any information that Contractor acquires or accesses by software or web based services, which includes, without limitation, any metadata or location data. Government information excludes unrestricted information. **Information** means any communication or representation of knowledge such as facts, statistics, or opinions, in any medium or form, including textual, numerical, graphic, cartographic, narrative, or audiovisual. **Information system** means a discrete set of information resources organized for the collection, processing, maintenance, use, sharing, dissemination, or disposition of information. **Public information** means any specific information, regardless of form or format, that the State has actively and intentionally disclosed, disseminated, or made available to the public. Information is not public information solely because it may be subject to inspection pursuant to an unfulfilled public records request. **Software** means any computer program accessed or used by the Using Governmental Unit or a third party pursuant to or as a result of this contract. **Third party** means any person or entity other than the Using Governmental Unit, the Contractor, or any subcontractors at any tier. **Unrestricted information** means (1) public information acquired other than through performance of the work, (2) information acquired by Contractor prior to contract formation, (3) information incidental to your contract administration, such as financial, administrative, cost or pricing, or management information, and (4) any ideas, concepts, know-how, methodologies, processes, technologies, techniques which Contractor develops or learns in connection with Contractor's performance of the work. **Web-based service** means a service accessed over the Internet and acquired, accessed, or used by the using governmental unit or a third party pursuant to or as a result of this contract, including without limitation, cloud services, software-as-a-service, and hosted computer services.

40. Termination For Convenience – Indefinite Delivery / Indefinite Quantity Contracts: Unless the termination so provides, a termination for convenience shall not operate to terminate any purchase orders issued prior to the effective date of termination. [07-7B255-1]
41. Termination for Convenience: (1) Termination. The Procurement Officer may terminate this contract in whole or in part, for the convenience of the State. The Procurement Officer shall give written notice of the termination to the contractor specifying the part of the contract terminated and when termination becomes effective. (2) Contractor's Obligations. The contractor shall incur no further obligations in connection with the terminated work and on the date set in the notice of termination the contractor will stop work to the extent specified. The contractor shall also terminate outstanding orders and subcontracts as they relate to the terminated work. The contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated work. The Procurement Officer may direct the contractor to assign the contractor's right, title, and interest under terminated orders or subcontracts to the State. The contractor must still complete the work not terminated by the notice of termination and may incur obligations as are necessary to do so. (3) Right to Supplies. The Procurement Officer may require the contractor to transfer title and deliver to the State in the manner and to the extent directed by the Procurement Officer: (a) any completed supplies; and (b) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information, and contract rights (hereinafter called "manufacturing material") as the contractor has specifically produced or specially acquired for the performance of the terminated part of this contract. The contractor shall, upon direction of the Procurement

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Officer, protect and preserve property in the possession of the contractor in which the State has an interest. If the Procurement Officer does not exercise this right, the contractor shall use best efforts to sell such supplies and manufacturing materials in accordance with the standards of Uniform Commercial Code Section 2-706. Utilization of this Section in no way implies that the State has breached the contract by exercise of the Termination for Convenience Clause. (4) Compensation. (a) The contractor shall submit a termination claim specifying the amounts due because of the termination for convenience together with cost or pricing data required by Section 11-35-1830 bearing on such claim. If the contractor fails to file a termination claim within one year from the effective date of termination, the Procurement Officer may pay the contractor, if at all, an amount set in accordance with Subparagraph (c) of this Paragraph. (b) The Procurement Officer and the contractor may agree to a settlement and that the settlement does not exceed the total contract price plus settlement costs reduced by payments previously made by the State, the proceeds of any sales of supplies and manufacturing materials under Paragraph (3) of this clause, and the contract price of the work not terminated; (c) Absent complete agreement under Subparagraph (b) of this Paragraph, the Procurement Officer shall pay the contractor the following amounts, provided payments agreed to under Subparagraph (b) shall not duplicate payments under this Subparagraph: (i) contract prices for supplies or services accepted under the contract; (ii) costs reasonably incurred in performing the terminated portion of the work less amounts paid or to be paid for accepted supplies or services; (iii) reasonable costs of settling and paying claims arising out of the termination of subcontracts or orders pursuant to Paragraph (2) of this clause. These costs must not include costs paid in accordance with Subparagraph (c)(ii) of this paragraph; (iv) any other reasonable costs that have resulted from the termination. The total sum to be paid the contractor under this Subparagraph shall not exceed the total contract price plus the reasonable settlement costs of the contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and manufacturing materials under Subparagraph (b) of this Paragraph, and the contract price of work not terminated. (d) Contractor must demonstrate any costs claimed, agreed to, or established under Subparagraphs (b) and (c) of this Paragraph using its standard record keeping system, provided such system is consistent with any applicable Generally Accepted Accounting Principles. (5) Contractor's failure to include an appropriate termination for convenience clause in any subcontract shall not (i) affect the State's right to require the termination of a subcontract, or (ii) increase the obligation of the State beyond what it would have been if the subcontract had contained an appropriate clause.

42. Third Party Beneficiary: This Contract is made solely and specifically among and for the benefit of the parties hereto, and their respective successors and assigns, and no other person will have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Contract as a third-party beneficiary or otherwise.
43. Waiver: The State does not waive any prior or subsequent breach of the terms of the Contract by making payments on the Contract, by failing to terminate the Contract for lack of performance, or by failing to strictly or promptly insist upon any term of the Contract. Only the Procurement Officer has actual authority to waive any of the State's rights under this Contract. Any waiver must be in writing.



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44. Notices: Notwithstanding anything contained in the Master Agreement to the contrary, all notices required or permitted under this Participating Addendum will be in writing and will be deemed given: (a) when delivered personally; (b) when sent by confirmed facsimile or electronic mail; (c) three (3) days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (d) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt. All communications will be sent to the addresses set forth Section 5 of this Participating Addendum or such other address as may be designated by a party by giving written notice to the other party pursuant to this paragraph, or, in the absence of such an address from Customer, to the address to which the last invoice under this Participating Addendum was sent before notice is served.

Notwithstanding the foregoing, notices regarding changes in pricing, Software license terms, policies or programs may be by e-mail or fax.

45. Submission Of Participating Addendum To Naspo Valuepoint: Upon execution, Contractor shall email a copy of this Participating Addendum and any amendments hereto to NASPO ValuePoint at pa@naspovaluepoint.org. While Participating Entity will maintain the official record of this Participating Addendum, the Parties agree that this Participating Addendum, as amended, may be published on the NASPO ValuePoint website.

46. Entire Agreement:
This Participating Addendum and the Master Agreement (including all amendments and attachments thereto) constitute the entire agreement between the parties concerning the subject matter of this Participating Addendum and replaces any prior oral or written communications between the parties, all of which are excluded. There are no conditions, understandings, agreements, representations or warranties, expressed or implied, that are not specified herein. This Participating Addendum may be modified only by a written document executed by the parties hereto.

47. Lease Agreements: Reserved

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Joel Atkinson
Telephone	
E-mail	jatkinson@naspo.org



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Exhibit A

Purchase Order Attachment

Acceptance of Offers 10% Below Statewide Term Contract Price

Instructions: If an agency purchases any item available on the Term Contract identified below from a business (an Alternate Vendor) other than the Term Contract Contractor and the total price of the purchase order exceeds \$500, then the procurement officer making the purchase must attach this form to the purchase order issued to the Alternate Vendor. The agency procurement officer must complete the following four blanks: the number and description of the applicable Term Contract, the number of the agency's Purchase Order, and the name of Term Contract Contractor that you offered an opportunity to match.

Term Contract Solicitation No.	Term Contract Description
Term Contract Contractor	Purchase Order No.



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Agreement

By signing this document, Alternate Vendor is entering into a contract with the agency named above regarding the items referenced on Purchase Order identified above. Regarding the items acquired with the Purchase Order, Alternate Vendor agrees to be bound by all the terms and conditions of the Term Contract Solicitation identified above. Alternate Vendor has received and read a copy of the Term Contract Solicitation identified above. The Purchase Order may be used to elect only those options expressly allowed in the Term Contract Solicitation. Possible options might include quantity, item, delivery date, and payment method. Any contract resulting from this Purchase Order is limited to the documents identified in the clause entitled Contract Documents & Order of Precedence.

<p>NAME OF ALTERNATE VENDOR</p> <p>(full legal name of business entering this contract)</p>	<p>STATE VENDOR NO.</p> <p>7000051231 (Register to Obtain S.C. Vendor No. at www.procurement.sc.gov)</p>
<p>AUTHORIZED SIGNATURE</p> <p><i>Chris Abel</i> (person authorized to enter binding contract on behalf of Alternate Vendor)</p>	<p>TITLE</p> <p>President (business title of person signing)</p>
<p>PRINTED NAME</p> <p>Chris Abel (printed name of person signing above)</p>	<p>DATE SIGNED</p> <p>02/15/2024</p>



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Certification of Compliance

I certify as follows: (1) every item acquired with the Purchase Order is priced at least ten percent less than the Term Contract price for the same item; (2) the Term Contract Contractor identified above declined to meet the prices stated on the Purchase Order after being offered a reasonable opportunity to meet the price stated on the Purchase Order; and, (3) this purchase complies with Section 11-35-310(35), which is reprinted below.

AUTHORIZED SIGNATURE (procurement officer authorized to issue purchase order and sign certification)		TITLE (business title of person signing)
PRINTED NAME (printed name of person signing above)		DATE SIGNED

Section 11-35-310(35) of the South Carolina Code of Laws reads as follows: ""Term contract" means contracts established by the chief procurement officer for specific supplies, services, or information technology for a specified time and for which it is mandatory that all governmental bodies procure their requirements during its term. As provided in the solicitation, if a public procurement unit is offered the same supplies, services, or information technology at a price that is at least ten percent less than the term contract price, it may purchase from the vendor offering the lower price after first offering the vendor holding the term contract the option to meet the lower price. The solicitation used to establish the term contract must specify contract terms applicable to a purchase from the vendor offering the lower price. If the vendor holding the term contract meets the lower price, then the governmental body shall purchase from the contract vendor. All decisions to purchase from the vendor offering the lower price must be documented by the procurement officer in sufficient detail to satisfy the requirements of an external audit. A term contract may be a multi term contract as provided in Section 11-35-2030."

----- PURCHASE ORDER ATTACHMENT (APR 2015) -----



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Signatures

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.

Participating Entity: State of South Carolina	Contractor: Kustom Signals, Inc.
Signature: 	Signature: 
Name: Yolanda Cohen	Name: Chris Abel
Title: Procurement Manager II	Title: President
Date: 02/15/2024	Date: 02/15/2024

[Additional signatures may be added if required by the Participating Entity]

For questions regarding NASPO ValuePoint Participating Addendums, please contact the Cooperative Contract Coordinator team at ccc@naspovaluepoint.org.

Fully executed NASPO ValuePoint Participating Addendums must be submitted via email in PDF format to pa@naspovaluepoint.org.