

PARTICIPATING ADDENDUM
NASPO ValuePoint
Public Safety Communication Equipment 06913
Lead by the State of Washington (hereinafter "Lead State")

MASTER AGREEMENT

JVCKENWOOD USA Corporation
(hereinafter "Contractor")
And
State of Colorado
(hereinafter "Participating State")

1. Scope:

- i. This Participating Addendum ("Addendum") is made between the **State of Colorado**, acting by and through the **State Purchasing and Contracts Office, Colorado Department of Personnel and Administration** (the "Participating State" or "State" as the case may be) and **JVCKenwood USA Corporation** ("Contractor"). This Addendum between Contractor and Participating State (the "Parties") modifies and amends the Contract, NASPO ValuePoint Master Agreement No. **06913** ("Master Agreement"), between the State of **Washington** ("Lead State"), and Contractor for **Public Safety Communication Equipment**, for use by State Agencies and other entities located in the Participating State and authorized by that State's statutes to utilize NASPO ValuePoint Contracts with the prior approval of the State's Chief Procurement Official.
- ii. Contractor has been awarded the following category:
 - a) Radios:
 - 1) Portable, Single-Band, Tier I
 - 2) Portable, Single-Band, Tier II
 - 3) Portable, Single-Band, Tier III
 - 4) Mobile, Single-Band, Tier II
 - 5) Mobile, Single-Band, Tier III
 - 6) Desktop, Single-Band, Tier II

2. Terms and Conditions:

This Addendum and the Master Agreement, together with their respective exhibits, set forth the entire agreement between the Parties, superseding all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary to, or in addition to, the terms and conditions of this Addendum and the Master Agreement, together with their exhibits, shall not be added to or incorporated into this Addendum and its exhibits by any subsequent Purchase Order and any such attempts to add or incorporate such terms and conditions are void. The terms and conditions of this Addendum and the Master Agreement shall prevail and govern in the case of any such inconsistent or additional terms, as applied to the Participating State.

3. Effective Date and Notice of Non-liability:

This Addendum shall not be effective or enforceable until the date on which it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"). Neither the State nor any Ordering Entity, as defined herein, shall be liable to pay or reimburse Contractor for any performance hereunder including, but not limited to, costs or expenses incurred by Contractor, or be bound by any provision hereof, prior to the Effective Date.

4. Participation:

- i. Use of specific NASPO ValuePoint cooperative Contracts by agencies, Political Subdivisions, registered Non-Profit Organizations, and other entities (including cooperatives) authorized by Participating State's

statutes to use State of Colorado Contracts is subject to the prior approval of the applicable State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.

- ii. Individual Customer: Each Participating State's agency, Political Subdivision, and registered Non-Profit Organization is an Ordering Entity, as defined in §2, **DEFINITIONS, of Exhibit A** to this Addendum, and will be treated as if it is an individual customer. Except to the extent modified by this Addendum, each agency, Political Subdivision and registered Non-Profit Organization will be responsible to follow the terms and conditions of the Master Agreement; and each will have the same rights and responsibilities for its purchases as Participating State has under the Contract. Termination for Non-appropriation provision in the NASPO ValuePoint Master Agreement # 06913 will not apply to private, non-profit users of the Addendum. Each agency, Political Subdivision and registered Non-Profit Organization will be responsible for its own charges, fees, and liabilities. Each agency, Political Subdivision and registered Non-Profit Organization will have the same rights to any indemnity or to recover any costs allowed in the Contract for its purchases. The Contractor will apply such charges to each Ordering Entity individually and the Participating State shall not be liable for any other Ordering Entity's charges.

5. **Subcontractors:**

- i. The Contractor may use Subcontractors to perform some of its duties and obligations under this Addendum; however, only dealers and re-sellers that have been approved by the State may be deployed. The Contractor will be responsible for any Agreements with such Subcontractors. The State of Colorado is not agreeing to, and is not responsible for, any terms and conditions with Subcontractors. Contractor shall remain the primary Contractor fully accountable to the State for ensuring that its Subcontractors comply with the terms of this Participating Addendum.
- ii. All JVCKenwood USA Corporation dealers and re-sellers who provide Goods and/or Services under this Addendum, shall be found on the dedicated Colorado Price Agreement website, as of the Effective Date of this Addendum, shall be Contractor's Subcontractors and agents, for placing Orders with, and providing sales and service support to, participants in the NASPO ValuePoint Master Agreement. The Contractor's duties and obligations will be in accordance with the terms and conditions set forth in the Master Agreement regardless of Contractor's use of Subcontractors.
- iii. Contractor shall provide written notice to the Participating State with respect to any changes to their authorized list of dealers and re-sellers in Colorado, and shall obtain written approval from the Participating State, which shall not be unreasonably withheld, prior to adding additional dealers and re-sellers to the authorized list of providers.

6. **Orders:**

- i. An Ordering Entity may purchase equipment under this Addendum.
- ii. Any Order placed by a Participating State or Ordering Entity for a Good and/or Service available under the Master Agreement, shall be deemed to be a sale under and governed by the prices and other terms and conditions of the Master Agreement, unless the Parties to the Order agree in writing that another Contract or agreement applies to such Order. Additional requirements for Orders are set forth in §4, **STATEMENT OF WORK, of Exhibit A** to this Addendum.
- iii. All Orders issued by Ordering Entities as defined in this Addendum shall state the Addendum Number: **2016-164** and the Master Agreement Number: **06913**.
- iv. Contractor's pricing sheets shall be located on the dedicated Colorado Price Agreement website.

7. **Participating State Modifications or Additions to Master Agreement:**

The following changes shall be made to the Master Agreement with respect to Contractor's performance pursuant to this Addendum:

- i. **Paragraph 5 of §6.3, Payment, Invoicing and Discounts, of the Master Agreement, shall be deleted in its entirety, and replaced with §5(C)(iv), Taxes and Payments to Contractor, Invoicing/Billing, Payment by State Ordering Entities; Interest of Exhibit A.**

- ii. **§6.4, Taxes, Fees and Licenses, of the Master Agreement, shall be deleted in its entirety, with the exception of Fees/Licenses and Customs/Brokerage Fees, and replaced with §5(A), Taxes and Payments to Contractor, Taxes and Tax Exemption Status, of Exhibit A.**
- iii. **§6.5, Overpayments to Contractor, of the Master Agreement, shall be deleted in its entirety, and replaced with §5(C)(ix) Taxes and Payments to Contractor, Invoicing/Billing, Erroneous Payments of Exhibit A.**
- iv. **§7.7, Training, of the Master Agreement, shall be deleted in its entirety, and replaced with §4(D)(vi), Statement of Work, Performance, Training, of Exhibit A.**
- v. **§8.2, Retention of Records, of the Master Agreement, shall be deleted in its entirety, and replaced with §7, Contractor Records, of Exhibit A.**
- vi. **§8.4, Protection of Confidential and Personal Information, of the Master Agreement, shall be deleted in its entirety, and replaced with §8, Confidential Information – Ordering Entity Records, of Exhibit A.**
- vii. **§9.2 Governing Law/Venue of the Master Agreement, shall be deleted in its entirety and replaced with §16(G), General Provisions, Jurisdiction and Venue.**
- viii. **§9.5, Independent Status of Contractor, of the Master Agreement, shall be deleted in its entirety, and replaced with §18(D), Colorado Special Provisions, Independent Contractor, of Exhibit A.**
- ix. **§9.6, Gifts and Gratuities, of the Master Agreement, shall be deleted in its entirety.**
- x. **§9.11, Waiver, of the Master Agreement, shall be deleted in its entirety, and replaced with §16(M), General Provisions, Waiver, of Exhibit A.**
- xi. **§10.1, Problem Resolution and Disputes, of the Master Agreement, shall be deleted in its entirety, and replaced with §4(D)(iii), Statement of Work, Performance, Resolution of Performance Issues, of Exhibit A.**
- xii. **§10.6, Limitation of Liability of the Master Agreement, shall be deleted in its entirety, and replaced with §16(F), General Provisions, Indemnification. Any Contractor claim of limitation of liability shall apply only in excess of any insurance to be maintained under §13, Remedies, of Exhibit A, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.**
- xiii. **§10.7, Federal Funding and §10.8, Federal Debarment and Suspension, of the Master Agreement, shall be deleted in its entirety, and replaced with §17, Federal Funding Accountability and Transparency Act of 2004 (“FFATA”), of Exhibit A.**
- xiv. **§11, Contract Termination, of the Master Agreement, shall be deleted in its entirety, and replaced with §12, Breach and §13, Remedies, of Exhibit A.**
- xv. **§18, Confidentiality, Non-Disclosure, and Injunctive Relief, of Appendix C, of the Master Agreement, shall be deleted in its entirety, and replaced with §8, Confidential Information – Ordering Entity Records, of Exhibit A.**
- xvi. **§10, Defaults and Remedies, of Appendix C, of the Master Agreement, shall be deleted in its entirety, and replaced with §12, Breach and §13, Remedies, of Exhibit A.**
- xvii. **§14(b), Indemnification – Intellectual Property, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §8(N), Confidential Information – Ordering Entity Records, Intellectual Property Indemnification, of Exhibit A.**
- xviii. **§17, Insurance, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §11, Insurance, of Exhibit A.**
- xix. **§19, License of Pre-Existing Intellectual Property, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §8(G)(ii), Confidential Information – Ordering Entity Records, Rights in Data, Documents and Computer Software, of Exhibit A.**
- xx. **§21, Ordering, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §4(E), Statement of Work, Orders, of Exhibit A.**
- xxi. **§22(a),(b), and (c), Participants, of Appendix C, of the Master Agreement, shall be deleted in their entirety and replaced with §4, Participation, of the Participating Addendum.**

- xxii. **§23, Payment, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §5(C)(iv), Taxes and Payments to Contractor, Invoicing/Billing, Payment by State Ordering Entities; Interest, of Exhibit A.**
- xxiii. **§25, Records Administration and Audit, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §7, Contractor Records, of Exhibit A.**
- xxiv. **§28, Standard of Performance and Acceptance, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §4(D)(iv), Statement of Work, Performance, Resolution of Performance Issues, of Exhibit A.** *iii page*
- xxv. **§29, Warranty, of Appendix C, of the Master Agreement, shall be deleted in its entirety and replaced with §10, Representations and Warranties, of Exhibit A.**

Provisions set forth in **Exhibit A** to this Addendum are incorporated herein and attached hereto.

8. Primary Contacts:

Contractor: JVCKenwood USA Corporation

Name	April Peterson, National Accounts and Contracts Manager
Address	2201 E Dominguez Street Long Beach, CA 90801-5745
Telephone	(310) 761-8213
Fax	(310) 761-8246
E-mail	ayoung@us.jvckenwood.com



Participating State: State of Colorado

Name	Nikki Kalen, Strategic Sourcing Specialist
Address	1525 Sherman Street, 3 rd Floor, Denver, Co 80203
Telephone	303-866-5671
E-mail	nikki.kalen@state.co.us

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THE PARTIES HERETO HAVE EXECUTED THIS ADDENDUM

*Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the Participating State is relying on their representations to that effect.

Participating State: State of Colorado, Governor's Office of Information Technology	Contractor: JVCKenwood USA Corporation
By: (Signature) 	By: (Signature) 
Name: <input type="checkbox"/> Brenda Berlin, Deputy Chief Information Officer and Chief Financial Officer <input checked="" type="checkbox"/> Steven Sizemore, OIT Contracts Director	Name: Joe Glassett
Date: 12/21/15	Title: Deputy CEO Date: 12/4/15

ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Addendum is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any Goods and/or Services provided hereunder.

Participating State: State of Colorado, Department of Personnel & Administration, State Purchasing and Contracts Office	Participating State: State of Colorado, Department of Personnel & Administration, State Controller's Office
By: (Signature) 	By: (Signature) 
Name: <input checked="" type="checkbox"/> Cindy Lombardi, State Purchasing and Contracts Director	Name: Robert Jaros, CPA, MBA, JD, State Controller (or Delegate) <input checked="" type="checkbox"/> Clark Bolser, Controller Delegate <input type="checkbox"/> Greg Garner, Controller Delegate <input type="checkbox"/> Floy Jeffares, Controller Delegate <input type="checkbox"/> Joe Weber, Controller Delegate <input type="checkbox"/> Challon Winer, Controller Delegate
Date: 12-22-15	Date: 12/30/15