

PARTICIPATING ADDENDUM

NASPO ValuePoint

Body Armor Products

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

MASTER AGREEMENT

GH Armor Systems, Inc.

Master Agreement No: **2016-179**

(hereinafter "Contractor")

And

State of Wyoming

(hereinafter "Participating State/Entity")

Page 1 of 3

1. **Scope:** This addendum covers the **Body Armor Products** led by the State of **Colorado** for use by state agencies and other entities located in the Participating State/Entity authorized by that state's statutes to utilize state/entity contracts with the prior approval of the State's Chief Procurement Official.
2. **Participation:** Use of specific NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities (including cooperatives) authorized by an individual state's statutes to use state/entity contracts are subject to the prior approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Participating State/Entity Modifications or Additions to Master Agreement:**
(These modification or additions apply only to actions and relationships within the Participating Entity.) Participating Entity must check one of the boxes below.

[] No changes to the terms and conditions of the Master Agreement are required.

[X] The following changes are modified or supplementing the Master Agreement terms and conditions.

The participating Addendum (Addendum) consisting of three (3) pages, Attachment A consisting of four (4) pages, and the State of Colorado NASPO ValuePoint Master Agreement, Number 2016-179 consisting of twenty-four (24) pages; and Attachment B consisting of six (6) pages, (collectively the Agreement) set forth the entire Agreement between the parties with respect to the subject matter of all previous communications, representations or agreements, whether oral or written, with respect to the subject matter hereof. Terms and conditions inconsistent with, contrary, or in addition to the terms and conditions of this Agreement, shall not be added to or incorporated into this Agreement by any subsequent purchase order or otherwise, and any such attempts to add or incorporate such terms and conditions are hereby rejected. The terms and conditions of this Agreement shall prevail and govern in the case of any such inconsistent or additional terms.

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

Contractor: GH Armor Systems, Inc.

Name	Chris Grado, Director of Sales and Marketing
Address	1 Sentry Drive, PO Box 280 Dover, TN 37058
Telephone	(931) 233-9084
Fax	(866) 920-5941
E-mail	cgrado@gharmorsystems.com

Participating Entity:

Name	Mandy Gershmel, Buyer
Address	700 W. 21 st Street, Cheyenne WY 82002
Telephone	(307) 777-6718
Fax	
E-mail	Mandy.gershmell@wyo.gov

5. **Subcontractors:** All GH Armor Systems, Inc. Distributors authorized in the State of Wyoming as shown on the dedicated GH Armor Systems, Inc. NASPO ValuePoint website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The Contractor's Distributor's participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.
6. **Orders:** Any Order placed by a Participating Entity or Purchasing Entity for a Product and/or Service available from this 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.

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

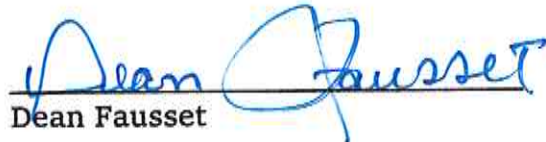
Participating State: Wyoming	Contractor: GH Armor Systems, Inc.
By:	By: 
Name: Mandy Gershmel	Name: Chris Grado
Title: Buyer	Title: Managing Director
Date:	Date: 1/2/17

ATTORNEY GENERAL APPROVAL AS TO FORM ONLY:

Susan G. O'Brien, Senior Assistant Attorney General

Date

A&I Director


Dean Fausset

2-17-17

Date

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@naspovaluepoint.org

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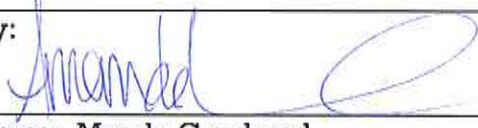
And

State of Wyoming

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Page 3 of 3

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

Participating State: Wyoming	Contractor: GH Armor Systems, Inc.
By: 	By:
Name: Mandy Gershmel	Name:
Title: Buyer	Title:
Date: <u>2/10/17</u>	Date:

ATTORNEY GENERAL APPROVAL AS TO FORM ONLY:


Susan G. O'Brien, Senior Assistant Attorney General

2-9-17
Date

A&I Director


Dean Fausset

2-17-17
Date

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator	Tim Hay
Telephone	503-428-5705
E-mail	thay@naspovaluepoint.org

Attachment A Wyoming General Conditions

This Attachment A, Wyoming General Conditions, supplements and replaces terms and conditions contained in Colorado NASPO ValuePoint Master Agreement – Number 2016-179, dated March 21, 2016, and Participating Addendum for the procurement of Body Armor Products (collectively referred to as "Agreement") entered into between GH Armor Systems, Inc. ("Contractor") and the State of Wyoming ("State"). In the event of any inconsistencies between the terms and conditions contained in the Agreement and this Attachment A, the terms and conditions in this Attachment A shall control and shall supersede and replace the terms contained in the Agreement.

The following provisions contained in the Agreement are modified: Section V(G): Payment is modified: "Payment shall be made upon submission of invoice pursuant to Wyo. Stat. § 16-6-602"; Section VI (A)(2)(f)(i): Insurance Requirements is modified to remove requirement by the Contractor to name the Participating Entity as an additional insured.

The following General Conditions are made part of the Agreement:

1. **Acceptance.** Contractor shall notify State if State's purchase order is not accepted by Contractor. Any items received by State and not rejected within thirty (30) days of the date of the invoice shall be deemed accepted by State.

2. **Partial Shipments.** Contractor will not make partial shipments of any order unless authorized by the State.

3. **General Provisions.**

A. Amendments. Any changes, modifications, revisions or amendments to this Addendum which are mutually agreed upon by the parties to the Agreement shall be incorporated by written instrument, executed and signed by all parties to this Addendum.

B. Applicable Law/Venue. The construction, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this Agreement and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.

C. Assumption of Risk. The Contractor shall be responsible for any loss of state or federal funding, either administrative or program dollars, due to Contractor's failure to comply with state or federal requirements. The State shall notify the Contractor of any state or federal determination of noncompliance.

D. Availability of Funds. Each payment obligation of the State is conditioned upon the availability of government funds which are appropriated or allocated for the payment of this obligation. If funds are not allocated and available for the continuance of the services performed by the Contractor, the Agreement may be terminated by the State at the end of the period for which the funds are available. The State shall notify the Contractor at the earliest possible time of the services which will or may be affected by a shortage of funds. No penalty shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments due or for any damages as a result of termination under this section. This provision shall not be construed to permit the State to terminate this Agreement in order to acquire similar services from another party.

E. Award of Related Contracts. The State may undertake or award supplemental or successor contracts for work related to this Agreement. The Contractor shall cooperate fully with other contractors and the State in all such cases.

F. Confidentiality of Information. All documents, data compilations, reports, computer programs, photographs, and any other work provided to or produced by the Contractor in the performance of this Agreement shall be kept confidential by the Contractor unless written permission is granted by the State for its release.

G. Force Majeure. Neither party shall be liable for failure to perform under this Agreement if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event, and takes all reasonable steps to minimize delays. This provision shall not be effective unless the failure to perform is beyond the control and without the fault or negligence of the nonperforming party.

H. Indemnification. The Contractor shall release, indemnify and hold harmless the State, the Agency, and their officers, agents, employees, successors, and assignees from any and all claims, lawsuits, losses, and liability arising out of the Contractor's failure to perform any of the Contractor's duties and obligations hereunder or in connection with the negligent performance of Contractor's duties or obligations, including but not limited to any claims, lawsuits, losses or liability arising out of Contractor's malpractice or malfeasance.

I. Independent Contractor. The Contractor shall function as an independent contractor for the purposes of this Contract, and shall not be considered an employee of the State of Wyoming for any purpose. The Contractor shall assume sole responsibility for any debts or liabilities that may be incurred by the Contractor in fulfilling the terms of this Agreement, and shall be solely responsible for the payment of all federal, state and local taxes which may accrue because of this Agreement. Nothing in this Agreement shall be interpreted as authorizing the Contractor or its agents and/or employees to act as an agent or representative for or on behalf of the State of Wyoming or the State, or to incur any obligation of any kind on the behalf of the State of Wyoming or the State. The Agreement agrees that no health/hospitalization benefits, workers' compensation and/or similar benefits available to State of Wyoming employees will inure to the benefit of the Contractor or the Contractor's agents and/or employees as a result of this Agreement.

J. Kickbacks. The Contractor certifies and warrants that no gratuities, kickbacks or contingency fees were paid in connection with this Agreement, nor were any fees, commissions, gifts, or other considerations made contingent upon the award of this Agreement. If the Contractor breaches or violates this warranty, the State may, at its discretion, terminate this Agreement without liability to the State, or deduct from the contract price or consideration, or otherwise recover, the full amount of any commission, percentage, brokerage, or contingency fee.

K. Nondiscrimination. The Contractor shall comply with Presidential Executive Order 11246 entitled, "Equal Employment Opportunity," as amended by Presidential Executive Order 11375, and as supplemented in the Department of Labor Regulations (41 CFR Part 60), the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. ' 27-9-105 *et seq.*), and the Americans With Disabilities Act (ADA), 42 U.S.C. 12101, *et seq.* The Contractor shall assure that no person is discriminated against based on the grounds of sex, race, religion, national origin or disability in connection with the performance of this Contract.

L. Notices. All notices arising out of, or from, the provisions of this Agreement shall be in writing and given to the parties at the address provided under this Agreement, either by regular mail, email (ai-purchasing@wyo.gov and cgrado@gharmorsystems.com) or delivery in person.

M. Notice and Approval of Proposed Sale or Transfer of the Contractor. The Contractor shall provide the State with the earliest possible advance notice of any proposed sale or transfer or any proposed merger or consolidation of the assets of the Contractor. Such notice shall be provided in accordance with the notice provision of this Agreement.

N. Prior Approval. This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Contract, and the Wyoming State Auditor shall not draw warrants for payment on this Agreement, until this Agreement has been reduced to writing, approved as to form by the Office of the Attorney General, filed with and approved by the Department of Administration and Information, and approved by the Governor of the State of Wyoming if required by Wyo. Stat. § 9-2-1016(b)(iv)(D).

O. Publicity. Any publicity given to the program or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, shall identify the State as the sponsoring State and shall not be released without prior written approval from the State.

P. Sovereign Immunity. The State of Wyoming and the Agency do not waive sovereign immunity by entering into this Agreement, and specifically retain immunity and all defenses available to it as sovereign pursuant to Wyo. Stat. § 1-39-104(a) and all other state law. Designations of venue, choice of law, enforcement actions, and similar provisions should not be construed as a waiver of sovereign immunity. The parties agree that any ambiguity in this Agreement shall not be strictly construed, either against or for either party, except that any ambiguity as sovereign immunity shall be construed in favor of sovereign immunity.

Q. Taxes. The Contractor shall pay all taxes and other such amounts required by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.

R. Third Party Beneficiary Rights. The parties do not intend to create in any other individual or entity the status of third party beneficiary, and this Agreement shall not be construed so as to create such status. The rights, duties and obligations contained in this Agreement shall operate only between the parties to this Agreement, and shall inure solely to the benefit of the parties to this Agreement. The provisions of this Agreement are intended only to assist the parties in determining and performing their obligations under this Agreement.

S. Titles Not Controlling. Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.

T. Waiver. The waiver of any breach of any term or condition in this Agreement shall not be deemed a waiver of any prior or subsequent breach.