

PARTICIPATING ADDENDUM
NASPO VALUEPOINT COOPERATIVE PURCHASING PROGRAM
Laboratory Equipment and Supplies
Administered by the State of Idaho (hereinafter "Lead State")

Nikon Instruments, Inc.
Master Agreement No: MA16000234-3
(hereinafter "Contractor")

And

State of Wyoming
(hereinafter "Participating State")

1. Scope: This Participating Addendum (PADD) covers the Laboratory Equipment and Supplies contract led by the State of Idaho (Master Agreement No. MA16000234-3) for use by state agencies and other entities located in the Participating State, as provided below.
2. Participation: Use of NASPO ValuePoint cooperative contracts by agencies, political subdivisions and other entities authorized by an individual state's statutes to use State 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 Modifications or Additions to Master Agreement: Exhibit A consisting of seven (7) pages. Attachment A consisting of three (3) pages.
4. Primary Contacts: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name	Jacquelyn L Perry
Address	1300 Walt Whitman Rd.
Telephone	631-547-8526
Fax	631-944-9370
E-mail	niorderscontracts@nikon.net

Participating State

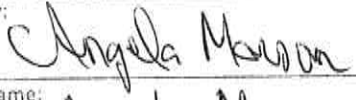

Name	Angela Morson
Address	700 West 21 st Street, Cheyenne WY 82002
Telephone	(307) 777-6705
Fax	NA
E-mail	angela.morson@wyo.gov

5. Terms: The Participating State/Entity is agreeing to the terms of the Master Agreement only to the extent the terms are not in conflict with applicable law.

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. All orders issued by purchasing entities within the State must include the Participating State contract number: PADD MA16000234-3 as well as the Lead State Master Agreement No. MA16000234-3.

7. Entire Agreement: This PADD and the Master Agreement No. MA16000234-3, together with its exhibits, 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. The terms and conditions of this PADD shall prevail and govern in the case of any inconsistency or conflict with the terms and conditions of the Master Agreement, as to the Participating State, and shall otherwise have no impact on the Master Agreement and its exhibits.

The parties have executed this PADD as of the date of the last signature below.

Participating State:	Contractor: Nikon Instruments, Inc.
By: 	By: 
Name: Angela Morson	Name: James Hanjin
Title: Procurement Officer	Title: Vice President
Date: 3-21-17	Date: 3-17-17

ATTORNEY GENERAL'S OFFICE APPROVAL AS TO FORM:


Tyler M. Renner, Assistant Attorney General

3/1/17
Date

STATE OF WYOMING, ADMINISTRATION & INFORMATION:


Dean Fausset, Director

3-22-17
Date

ATTACHMENT A
Wyoming General Conditions

This Attachment A, Wyoming General Conditions, supplements and replaces terms and conditions contained in Idaho WSCA-NASPO Master Agreement – Number MA16000234-3, dated February 10, 2016, and Participating Addendum for NASPO ValuePoint Cooperative Purchasing Laboratory Equipment and Supplies (collectively referred to as "Agreement") entered into between Nikon Instruments, Inc. (Contractor) and the State of Wyoming (State), by and through its Department of Administration & Information (Agency). 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: Attachment A, NASPO ValuePoint Master Agreement Terms & Conditions: Section 8(c), to the extent it might be interpreted to apply to the State, is deleted; Section 14, Indemnification, applies to the extent allowable by Wyoming law; Section 17 Insurance, paragraph (d), is hereby modified to remove requirement (1) that the Contractor name the Participating State as an additional insured; and Section 23 Payment is modified to read: "Payment for completion of an Agreement order shall be made within 45 days upon submission of invoice pursuant to Wyo. Stat. § 16-6-602."

The following General Conditions are made part of the Agreement:

1. **Amendments.** Any changes, modifications, revisions or amendments to this Agreement which are mutually agreed upon by the parties to this Agreement shall be incorporated by written instrument, executed and signed by all parties to this Agreement.
2. **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.
3. **Agreement Not Used as Collateral.** The Contractor shall not use this Agreement, or any portion thereof, for collateral for any financial obligation, without the prior written permission of the Agency.
4. **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 Agency shall notify the Contractor of any state or federal determination of noncompliance.
5. **Award of Related Agreements.** The Agency may undertake or award supplemental or successor Agreements for work related to this Agreement. The Contractor shall cooperate fully with other Contractors and the Agency in all such cases.

6. **Confidentiality of Information.** All documents, data compilations, reports, computer programs, photographs, data and 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 Agency for its release. If and when Contractor receives a request for information subject to this Agreement, Contractor shall notify Agency within ten (10) days of such request and not release such information to a third party unless directed to do so by Agency.
7. **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.
8. **Independent Contractor.** The Contractor shall function as an independent Contractor for the purposes of this Agreement, and shall not be considered an employee of the State of Wyoming for any purpose. Consistent with the express terms of this Agreement, the Contractor shall be free from control or direction over the details of the performance of services under this Agreement. 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 Agency, or to incur any obligation of any kind on the behalf of the State of Wyoming or the Agency. The Contractor agrees that no health/hospitalization benefits, workers' compensation, unemployment insurance 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.
9. **Nondiscrimination.** The Contractor shall comply with the Civil Rights Act of 1964, the Wyoming Fair Employment Practices Act (Wyo. Stat. § 27-9-105, *et seq.*), the Americans With Disabilities Act (ADA), 42 U.S.C. 12101, *et seq.*, and the Age Discrimination Act of 1975 and/or any properly promulgated rules and regulations thereto and shall not discriminate against any individual on the grounds of age, sex, color, race, religion, national origin, or disability in connection with the performance of this Agreement.

10. **Prior Approval.** This Agreement shall not be binding upon either party, no services shall be performed under the terms of this Agreement, 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).
11. **Severability.** Should any portion of this Agreement be judicially determined to be illegal or unenforceable, the remainder of the Agreement shall continue in full force and effect, and either party may renegotiate the terms affected by the severance.
12. **Sovereign Immunity.** The State of Wyoming and the Agency do not waive sovereign immunity by entering in to this Agreement, and specifically retain immunity and all defenses available to them as sovereigns pursuant to Wyo. Stat. § 1-39-104(n) and all other applicable 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 enforced, either against or for either party, except that any ambiguity as to sovereign immunity shall be construed in favor of sovereign immunity.
13. **Taxes.** The Contractor shall pay all taxes and other such amounts required of the Contractor by federal, state and local law, including but not limited to federal and social security taxes, workers' compensation, unemployment insurance and sales taxes.
14. **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.
15. **Titles Not Controlling.** Titles of paragraphs are for reference only, and shall not be used to construe the language in this Agreement.