

**PARTICIPATING ADDENDUM
NASPO ValuePoint**

NASPO POLICE RADAR, LIDAR SPEED ENFORCEMENT & SPEED ADVISORY SYSTEMS, PARTS, AND ACCESSORIES

Administered by the State of Washington (hereinafter "Lead State")

MASTER AGREEMENT

Master Agreement No: 00218

Applied Concepts, Inc. dba Stalker Radar
(hereinafter "Contractor" or "CONTRACTOR")

and

State of North Dakota
(hereinafter "Participating State" or "STATE")

Master Contract No.: 127

This Participating Addendum for the above referenced Master Agreement ("Participating Addendum") is made and entered into by and between the State of North Dakota acting by and through the Office of Management and Budget, State Procurement Office ("Participating State" or "STATE") and Applied Concepts, Inc. dba Stalker Radar ("Contractor" or "CONTRACTOR") and is dated and effective as of March 8, 2018.

1. **SCOPE:** This Participating Addendum covers NASPO Police Radar, Lidar Speed Enforcement & Speed Advisory Systems, Parts, and Accessories led by the State of Washington for use by state agencies and other entities located in the Participating State authorized by that state's statutes to utilize state 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 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:**
 - 3.1. **Coterminous:** The term of this participating addendum shall be coterminous with the State of Washington Master Agreement Number 00218.
 - 3.2. **Confidentiality:** CONTRACTOR shall not use or disclose any information it receives from STATE under this Contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except from mandatory public disclosure except as necessary to carry out the purposes of this Contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota

open records law, North Dakota Century Code (N.D.C.C.) ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this Contract.

- 3.3. Compliance with Public Records Laws: CONTRACTOR understands that, except for disclosures prohibited in this Contract, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE as soon as reasonably possible upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to the request.
- 3.4. Spoliation: CONTRACTOR shall notify State of all potential claims that CONTRACTOR is aware of that arise as a result of CONTRACTOR's performance under this Contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to STATE the opportunity to review and inspect the evidence, including the scene of an accident.
- 3.5. Cooperative Purchasing Contract: This Contract is a cooperative purchasing contract established pursuant to N.D.C.C. § 54-44.4-13. This Contract is made available to state entities, institutions under the jurisdiction of the State Board of Higher Education, other government entities (including counties, cities, townships, public primary and secondary educational entities, governmental boards and commissions), nonprofit entities established on behalf of public entities, tribal agencies, transportation providers under N.D.C.C. ch. 39-04.2, and the International Peace Garden. Participation in this open-ended contract is not mandated; therefore, the estimated volume of this Contract is not known.
- 3.6. Governing Law and Venue: This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.
- 3.7. Indemnification. In addition to any indemnity obligations found within the Master Agreement, CONTRACTOR agrees that any attorney appointed to represent STATE must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08.

3.8. Alternative dispute resolution – Jury Trial. STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

3.9. Attorney Fees. In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE’s reasonable attorney fees and costs in connection with the lawsuit.

4. **LEASE AGREEMENTS**: Leasing, renting, or purchasing equipment is not allowed throughout the term of the Master Agreement.

5. **PRIMARY CONTACTS**: The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor	Participating State
Applied Concepts, Inc. 855 E Collins Blvd Richardson, TX 75081	State of North Dakota Office of Management and Budget, State Procurement Office 600 E. Boulevard Ave, Dept. 012 Bismarck, ND 58505-0310
Attn: Jan Achilles Tel: (972) 398-3780 Email: jana@a-concepts.com	Attn: Amy Cannon Tel: (701) 328-2690 Email: alcannon@nd.gov

6. **SUBCONTRACTORS**: All CONTRACTOR’s Distributors authorized in the State of North Dakota, as shown on the dedicated Contractor 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.

7. **ORDERS**: Unless the parties to the Order agree in writing that another contract or agreement applies to such order, 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 as conditioned by this Participating Addendum.

8. **GENERAL**:

(a) **INTEGRATED AGREEMENT; MODIFICATION**. This Participating Addendum and Master Agreement, together with its exhibits, set forth the entire agreement and understanding of the Parties with respect to the subject matter and supersedes all prior negotiations and representations. This Participating Addendum may not be modified except in writing signed by the Parties.

(b) **AUTHORITY**. Each party to this Participating Addendum, and each individual signing on behalf


of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Participating Addendum and that its execution, delivery, and performance of this Participating Addendum has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

- (c) ELECTRONIC SIGNATURES. A signed copy of this Participating Addendum or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Participating Addendum or such other ancillary agreement for all purposes.
- (d) COUNTERPARTS. This Participating Addendum may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Participating Addendum at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Participating Addendum.


EXECUTED as of the date and year first above written.

STATE OF NORTH DAKOTA
OFFICE OF MANAGEMENT AND BUDGET, STATE
PROCUREMENT OFFICE

APPLIED CONCEPTS, INC. DBA STALKER RADAR

By: 
Amy Cannon

Its: Procurement Officer

By: 
Jan Achilles

Its: Sales Administrator