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**AMENDMENT No. 1 OF
PROFESSIONAL SERVICES CONTRACT**

THIS AMENDMENT made as of the 9th day of May, 2023 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement on behalf of the Virgin Islands Bureau of Corrections (hereinafter referred to as "Government") and Nucleos, Inc. whose address is 343 Soquel Avenue, #78, Santa Cruz, CA 95062 (hereinafter referred to as "Contractor").

Both parties witness to being duly authorized to execute this agreement and will attest accordingly when and where necessary.

WITNESSETH

WHEREAS, pursuant to Contract No. **P135BOCT22**, approved by the Commissioner of Property and Procurement on July 22, 2022, (which constitutes and is hereinafter referred to as the "Contract"), the Government contracted with Contractor to develop a re-entry e-learning platform at the John A. Bell Adult Correctional Facility; and

WHEREAS, the Contract expires pursuant to its terms on **July 21, 2024**; and

WHEREAS, the parties desire to amend the Contract, to extend its services and revise the Scope of Services in Addendum I by adding services to the agreement (i.e., setup and configuration program management and module evolve platform, evolve subscription and business intelligence); by increasing the compensation under Addendum II by adding Sixty-One Thousand Five Hundred Dollars and Zero Cents (\$61,500.00) for the additional services; and in Exhibit A of the amendment, Services and Fee Services language changed to See 1st Amended Addendum I – 1st Amended Scope of Services and See 1st Amendment Addendum II – 1st Amended Compensation; and

NOW THEREFORE, for mutual and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

TERMS AND CONDITIONS

1. Paragraph No. 3 – Compensation is hereby amended by increasing the compensation by Sixty-One Thousand Five Hundred Dollars and Zero Cents (\$61,500.00) for a total amount not to exceed Three Hundred Six-Eight Thousand Five Hundred Sixty-Five Dollars and Zero Cents (\$368,565.00) by deleting all of the existing language contained therein and replacing it with new language as follows:

"The Government, in consideration of the satisfactory performance of the services described



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in 1st Amended Addendum I (1st Amended Scope of Services), agrees to pay Contractor the sum not to exceed Three Hundred Six-Eight Thousand Five Hundred Sixty-Five Dollars and Zero Cents (\$368,565.00) in accordance with the provisions set forth in 1st Amended Addendum II (1st Amended Compensation), attached hereto and made a part of this Contract.”

2. Addenda I, II and III and Exhibit A of the Contract are revised by deleting all terms contained therein and inserting in lieu thereof all the terms contained in Amended Addenda I, II, and III and Exhibit “A” respectively.
3. This Amendment is subject to the approval of the Commissioner of the Department of Property and Procurement and to the appropriation and availability of funds.
4. Except as expressly amended in this Amendment, all terms of the Contract remain in full force and effect.
5. **FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.



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IN WITNESS WHEREOF, the Parties have hereunto set their hands on the day and year first above written.

WITNESSES

GOVERNMENT OF THE VIRGIN ISLANDS

Melanie Puffett

Wynnie Testamark

3/22/2023
Date

Wynnie Testamark, Director
Bureau of Corrections

Agdelaine S. Francis

Lisa Alejandro

5/9/2023
Date

Lisa Alejandro, Acting Commissioner
Department of Property & Procurement

NUCLEOS, INC.

Vittoria Soriano

Noah Freedman

22 / 03 / 2023

Noah Freedman
Founder & Chief Executive Officer

Date

(Corporate seal, if Contractor is a corporation)

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: Carol E. McDermott Date 5/8/2023
Assistant Attorney General

PURCHASE ORDER NO. _____

Original Contract



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CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 22nd day of July, 2022, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Virgin Islands Bureau of Corrections (hereinafter referred to as "Government") and Nucleos, Inc. (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to develop a re-entry e-learning platform at the John A. Bell Adult Correctional Facility, which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the Government solicited the services under RFP No. 014-C-2021; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services; and

NOW, THEREFORE, in consideration of the compensation and mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Services), attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

This Contract shall be effective upon the date of execution by the Commissioner of the Department of Property and Procurement and terminate two years thereafter. The Government in its sole discretion shall have the option to renew this Contract for one additional year, subject to the same terms noted herein, by providing the Contractor with 60 days written notice of the Government's election to renew.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed Three Hundred Seven Thousand Sixty-Five and 00/100 Dollars (\$307,065.00) during the term of the contract in accordance with the provisions set forth in Addendum II (Compensation), attached hereto and made a part of this contract.

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Contract No. P135BOCT22

Contractor's Initials: NS



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4. TRAVEL EXPENSES

Not applicable.

5. RECORDS

The Contractor, when applicable, will present documented precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government.

8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor of whatsoever nature, including, but not limited to, unemployment insurance, gross receipt, excise, and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.



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10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, costs, charges and expenses (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition, or provision of this Contract shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

14. ENTIRE AGREEMENT

This agreement constitutes the entire agreement of the parties relating to the subject matter addressed in this Agreement. This agreement supersedes all prior communications, contracts, or agreements between the parties with respect to the subject matter addressed in this agreement, whether written or oral.

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, the Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising therefrom, and, at its option, the Government may apply such sums in such manner as the Government may deem proper to secure itself or to satisfy such claims. The Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.



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No such withholding or application shall be made by the Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Commissioner of the Department of Property and Procurement.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on 60 days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing 60 days written notice to the Contractor. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the 60-day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

- (a) Contractor covenants that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
- (b) Contractor further covenants that it is:
 - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or
 - (2) a territorial officer or employee and, as such, has:
 - (i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin



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- Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
- (ii) not made, negotiated or influenced this Contract, in its official capacity; and
 - (iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

21. NOTICE

Any notice required to be given by the Terms of this Contract shall be deemed to have been given when the same is sent by email, facsimile, certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT

Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Subbase, Suite 4
St. Thomas, VI 00802
Email: anthony.thomas@dpp.vi.gov
Telephone: (340) 774-0828

Wynnie Testamark
Director
Bureau of Corrections
9909 Industrial Park
Kingshill, VI 00850-9970
Email: wynnie.testamark@boc.vi.gov
Telephone: (340) 773-6309

CONTRACTOR

Nucleos, Inc.
Noah Freedman
Founder & Chief Executive Officer
343 Soquel Avenue, #78
Santa Cruz, CA 95062
Email: noah@nucleos.com
Telephone: (866) 682-5367

22. LICENSURE

The Contractor covenants that it has complied with California licensure.

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Contractor's Initials: 



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23. OTHER PROVISIONS

Addenda I, II, III, and Exhibit A, attached hereto, are a part of this Contract and are incorporated herein by reference.

24. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission or other agency thereof, knowing such claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. INSURANCE

Contractor shall maintain the following insurance coverages during the term of this Contract:

- (a) **COMMERCIAL GENERAL LIABILITY:** Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars (\$1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars (\$1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement.
- (b) **PROFESSIONAL LIABILITY:** Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than two million dollars (\$2,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.

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Contractor's Initials: 

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(c) **WORKERS' COMPENSATION:** Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

27. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

WITNESSES
[Signature]
[Signature]

GOVERNMENT OF THE VIRGIN ISLANDS
Wynnie Testamark 6/27/2022
Wynnie Testamark, Director Date
Bureau of Corrections
Anthony D. Thomas 7/22/2022
Anthony D. Thomas, Commissioner Date
Department of Property and Procurement

[Signature]

NUCLEOS, INC.
[Signature] 06/22/2022
Noah Freedman Date
Founder & Chief Executive Officer

(Corporate seal, if Contractor is a corporation)

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: Carol McDonald Date 7/22/2022
Assistant Attorney General

PURCHASE ORDER NO. _____