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AMENDMENT No. 1 OF PROFESSIONAL SERVICES CONTRACT

THIS AMENDMENT made as of the 11th day of February, 2023 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands **DEPARTMENT OF PROPERTY AND PROCUREMENT** (hereinafter referred to as “**Government**”) and **GPS Insight, LLC** (hereinafter referred to as “**Contractor**” or “**GPS Insight**”).

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. P028DPPT20 approved by the Commissioner of the Department of Property and Procurement on February 28, 2020, (the “Contract”), the Government contracted with Contractor to supply, install and maintain a Global Positioning Vehicle Tracking System for the Government of the Virgin Islands’ vehicle fleet; and

WHEREAS, the Contract expires pursuant to its terms on February 28, 2023; and

WHEREAS, the parties desire to amend the Contract, to extend its term by approximately eighteen (18) months, to change the Scope of Services to include an additional seven hundred eighty-six (786) devices, and to increase the compensation by Six Hundred Eighty-Eight Thousand Six Hundred Seventy-Seven and 75/100 Dollars (\$688,677.75); 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. The Contract is amended by deleting all of the text contained in Paragraph 1 and replacing it with the following:

“The Contractor will provide the services in 1st Amended Addendum I (1st Amended Scope of Services) in accordance with the Contractor’s Confidential Technical Approach in its response to RFP No. 031-T-2019(P) marked as Addendum III, both attached to and made a part of the Contract.”

2. The Contract, is hereby amended and its term extended by deleting all existing language contained in Paragraph 2 and replacing it with language as follows:

The Term of this Contract shall be from February 28, 2020, to August 31, 2024. Upon the date of execution by the Governor of the US Virgin Islands, this Contract shall be effective



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for the term set out herein. The Government in its sole discretion will have the option to renew this Contract for two (2) additional one (1) year periods, on the same terms, by providing the Contractor with sixty (60) days written notice.

3. Paragraph No. 3 – Compensation is hereby amended to increase the compensation by Six Hundred Eighty-Eight Thousand Six Hundred Seventy-Seven and 75/100 Dollars (\$688,677.75) for a total amount not to exceed One Million One Hundred Forty-One Thousand Seventeen and 75/100 Dollars (\$1,141,017.75) 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 in 1st Amended Addendum I (1st Amended Scope of Services) agrees to pay Contractor the sum not to exceed One Million One Hundred Forty-One Thousand Seventeen and 75/100 Dollars (\$1,141,017.75) in accordance with the provisions set forth in 1st Amended Addendum II (1st Amended Compensation) attached hereto and made a part of this Contract.”

4. Paragraph 4 is hereby amended by deleting all text contained therein and replacing it with the following:

“Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status for trips which have been authorized in writing, in advance, by the Government for Phase II installation services only. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed Thirty Thousand Nine Hundred and 00/100 Dollars (\$30,900.00).

5. Paragraph 23 is hereby amended by deleting all text contained therein and replacing it with the following:

“1st Amended Addendum I, 1st Amended Addendum II, Addenda III, IV and V, and Attachment A attached hereto are made a part of this Contract and incorporated herein by reference.

6. Addenda I and II of the Contract are revised by deleting all terms contained therein and inserting in lieu thereof all of the terms contained in 1st Amended Addendum (1st Amended Scope of Services) and 1st Amended Addendum II (1st Amended Compensation).



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7. This Amendment is subject to the approval of the Governor of the US Virgin Islands and to the appropriation and availability of funds.
8. Except as expressly amended in this Amendment, all terms of the Contract remain in full force and effect.
9. **FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

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

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

GOVERNMENT OF THE VIRGIN ISLANDS



Anthony D. Thomas, Commissioner
Department of Property & Procurement

1/30/2023

Date

CONTRACTOR



Tyler Mortensen, VP
GPS Insight, LLC

1.24.2023

Date

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY:  Date 2/1/2023

Assistant Attorney General

APPROVED:



Honorable Albert Bryan Jr.
GOVERNOR OF THE VIRGIN ISLANDS

Date:

2/17/23

PURCHASE ORDER NO. _____

Original Contract



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CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 28th day of February, 2020 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 Department of Property and Procurement (hereinafter referred to as "Government") and GPS Insight, LLC (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to supply, install and maintain a Global Positioning System Vehicle Tracking System for the Government of the Virgin Islands fleet, 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. 031-T-2019(P); and

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

NOW, THEREFORE, in consideration of the 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), in accordance with the Contractor's Confidential Technical Approach in its response to RFP No. 031-T-2019(P) marked as Addendum III, both attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

This Contract shall be effective upon the date of execution of this Contract by the Commissioner of the Department of Property and Procurement and shall terminate three (3) years thereafter. The Government in its sole discretion, shall have the option to renew this Contract for a period of two (2) additional one (1) year terms subject to the same terms noted herein, by providing the Contractor with sixty (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 Four Hundred Fifty-Two Thousand Three Hundred Forty Dollars and Zero Cents (\$452,340.00) in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this contract.

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4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs and expenses shall not exceed N/A (\$ N/A).

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.

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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.

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.

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15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, 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, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by 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

Termination for Cause. Either party may terminate the Contract in the event the other party materially breaches and fails to cure said breach within thirty (30) days after written notice detailing such breach.

Contract Term Buyout. The Government may terminate the Contract early without cause upon thirty (30) days prior written notice; provided that the Government pays all remaining fees under this Contract associated with the purchase of the devices not to exceed \$150.00 per device in addition to all Tracking Solution Fees, that would have been owed up until the date of termination, which fees shall become due and payable in full on the effective 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 thirty (30) 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 thirty (30) day notice. In the event of such early termination, the Government shall pay all remaining fees under this Contract associated with the

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purchase of the devices, not to exceed \$150.00 per device in addition to all Tracking Solution Fees, that would have been owed up until the date of termination, which fees shall become due and payable in full on the effective date of termination.

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 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 certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT
Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

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CONTRACTOR

Tyler Mortensen
VP of Strategic and Government Business
GPS Insight, LLC.
7201 E. Henkel Way Suite 400
Scottsdale, AZ 85255

22. LICENSURE

The Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Islands Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

23. OTHER PROVISIONS

Addenda I, II, III, IV, and V and Attachment 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.

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27. 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 one million dollars (\$1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.
- (c) **WORKERS' COMPENSATION:** Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.

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

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

1. *Magdelan A. Moore* *Anthony D. Thomas* 2/28/2020
Anthony D. Thomas, Commissioner Date
2. *[Signature]* Department of Property and Procurement

CONTRACTOR

1. *[Signature]* *TYLER MORTENSEN* 2/20/2020
Tyler Mortensen, VP Date
2. *[Signature]* GPS Insight, LLC.

(Corporate seal, if Contractor is a corporation)

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APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

Charles McHugh, Esq.
AAG

Date *2/28/2020*

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CERTIFICATE OF APPROVAL

I hereby certify that this is a true and exact copy of Contract No. _____ entered into between the Department of Property and Procurement and GPS Insight.

Anthony D. Thomas, Commissioner
Department of Property and Procurement

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