



DEPARTMENT OF MANAGEMENT AND FINANCE
Office of the Purchasing Agent

2100 Clarendon Blvd., Suite 501 Arlington, VA 22201
TEL 703-228-3410 FAX 703-228-3409 EMAIL purchasing@arlingtonva.us www.arlingtonva.us

April 8, 2020

VIA E-MAIL AND U.S. MAIL

Mr. Lindsay Bergstrom, Regional Finance Director
PTV America-PTV Group
1530 Wilson Boulevard
Suite 510
Arlington, Virginia 22209

RE: Arlington County Sole Source Contract No. 20-838, entitled, "Software Maintenance for VISSIM, VISUM, VISTRO and Other Related Products"

Dear Mr. Bergstrom:

This is to advise you that I, Shirley Diamond, have been designated as the Procurement Officer for the above referenced Contract. I am empowered to enter into the Contract on behalf of Arlington County, to take all actions and exercise all authority within the approved funding limits permitted under this Contract.

The Project Officer, Andy Anton, Design Engineer, is responsible for the day-to-day implementation of the Contract and can be reached by telephone at 703-228-7098 or e-mail aanton@arlingtonva.us. Except as otherwise provided in the Contract document no oral statement of any person and no written statement of anyone other than the Procurement Officer shall modify or otherwise affect the terms or meaning of the Contract document and Exhibits. All requests for interpretation or modification, shall be made in writing to the Procurement Officer through the Project Officer.

I'm enclosing the Contract document for your review and signature. Upon receipt of the executed Contract I will sign and send you a fully executed document for your files. Should you have any questions, please feel free to contact me at 703-228-3424 or via e-mail at stdiamond@arlingtonva.us.

Thank you for your assistance in this matter.

Sincerely,

A handwritten signature in blue ink that reads "Shirley Diamond".

Shirley Diamond
Procurement Officer

Enclosure

**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

SOLE SOURCE CONTRACT NO. 20-838

THIS AGREEMENT is made, on the date of execution by the County, between PTV America – PTV Group, located at 1530 Wilson Boulevard, Suite 510, Arlington, Virginia 22209 (“Contractor”) authorized to do business in the Commonwealth of Virginia and the County Board of Arlington County, Virginia. The County and the Contractor, for the consideration hereinafter specified, agree as follow

1. CONTRACT DOCUMENTS

The “Contract Documents” consist of this Contract and the following:

- Exhibit A – Scope of Work
- Exhibit B – Price Quote
- Exhibit C – PTV America End User License Agreement
- Exhibit D – PTV America Terms and Conditions
- Exhibit E – County Nondisclosure and Data Security Agreement (Contractor)
- Exhibit F – County Nondisclosure and Data Security Agreement (Individual)

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties’ agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the “Contract” or the “Agreement”.

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the “Work”). As detailed in the “Scope of Work” (Exhibit A), the primary purpose of the Work is software maintenance for VISSIM, VISSUM and other related products. It will be the Contractor’s responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor’s responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

4. CONTRACT TERM

Time is of the essence. The Period of Performance shall be Five (5) Years on the date of execution of the Agreement by the County.

CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment section below and Exhibit B for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work in accordance with Exhibit B ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in Exhibit A (Scope of Work) unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

5. PAYMENT

The Contractor must submit invoices to the County's Project Officer, who will either approve the invoice or require corrections. Each invoice must certify that the invoice submitted is a true and accurate accounting of the Work performed, goods and services provided and must be signed and attested to by the Contractor or authorized designee.

The County will pay the Contractor within Forty-Five (45) days after receipt of an invoice for completed Work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer.

The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

6. PAYMENT OF SUB-CONTRACTORS

The Contractor is obligated to take one of the Two following actions within Seven (7) days after receipt of payment by the County for Work performed by any sub-contractor under this Contract:

- a. Pay the sub-contractor for the proportionate share of the total payment received from the County attributable to the Work performed by the sub-contractor under this Contract; or
- b. Notify the County and the sub-contractor, in writing, of the Contractor's intention to withhold all or a part of the sub-contractor's payment, with the reason for non-payment.

The Contractor is obligated to pay interest to the sub-contractor on all amounts owed by the Contractor to the sub-contractor that remain unpaid after Seven (7) calendar days following receipt by the Contractor of payment from the County for Work performed by the sub-contractor under this Contract, except for amounts withheld as allowed in Sub-Section(b).above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of One Percent (1%) per month.

The Contractor must include in each of its sub-contracts, if any are permitted, a provision requiring each sub-contractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier sub-contractor.

The Contractor's obligation to pay an interest charge to a sub-contractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

7. NO WAIVER OF RIGHTS

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

8. NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

9. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract and the County is under no obligation to buy that or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past.

The County may require more goods or services than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s) and the County may determine that it is in its best interest to procure the items or services through those contract(s).

10. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

11. REPLACEMENT OF PERSONNEL AND SUB-CONTRACTORS

The County has the right reasonably to reject staff or sub-contractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or sub-contractors satisfactory to the County in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its sub-contractor's employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or sub-contractors identified in its proposal, including the approved Project Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or sub-contractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification, including identification of the proposed replacement and his or her qualifications.

If the approved Project Manager must be absent for an extended period, the Contractor must provide an interim Project Manager, subject to the County's written approval.

If the approved Project Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

12. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its Work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age or disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each sub-contractor or vendor.

13. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

14. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor must: (i) provide a drug-free Workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's Workplace and

specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free Workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each sub-contractor or vendor.

For the purposes of this section, "Workplace" means the site(s) for the performance of the Work required by this Contract.

15. SAFETY

The Contractor must ensure that it and its employees and sub-contractors comply with all applicable local, state and federal policies, regulations and standards relating to safety and health, including the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry and the applicable Federal Environmental Protection Agency and Virginia Department of Environmental Quality standards.

16. TERMINATION

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. **Termination for Unsatisfactory Performance.** If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. **Termination for Breach or Default.** If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant Work performed by the Contractor or its sub-contractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop Work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop Work on the date of receipt of the notice of the termination.

17. INDEMNIFICATION (Note: Virginia law does not permit the County to indemnify others; cross indemnity provisions are not acceptable to the County)

The Contractor covenants for itself, its employees and its sub-contractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or sub-contractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

The Contractor agrees to defend, indemnify, and hold harmless County from any and all damages, costs, claims, expenses, suits, losses, liabilities, or obligations of any kind including without limitation, environmental assessments, evaluations, remediations, fines, penalties, and clean-up costs which may be asserted against or imposed upon, or incurred by County arising from Contractor's discharge or disposal of any hazardous or toxic materials, trash, debris, refuse, waste or other materials ("Materials") related in any way to contractor's operations herein.

18. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any sub-contractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or sub-contractors uses any design, device, Work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its sub-contractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract.

This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this Section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

19. COPYRIGHT

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable Works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use sub-contractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such sub-contractors or third parties related to this Contract.

20. OWNERSHIP OF WORK PRODUCT

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All Work product, in any form, that results from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the Work product for any purpose other than performance of this Contract without the written consent of the County.

The Work product is confidential, and the Contractor may neither release the Work product nor share its contents. The Contractor will refer all inquiries regarding the status of any Work product to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all Work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with sub-contractors or other third parties.

The provisions of this Section will survive any termination or cancellation of this Contract.

21. DATA SECURITY AND PROTECTION

The Contractor will hold County Information, as defined below, in the strictest confidence and will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted information received from or created or maintained on behalf of the County. For purposes of this provision, and as more fully described in this Contract and in the County's Non-Disclosure and Data Security Agreement (NDA), "County Information" includes, but is not limited to, electronic information; documents; data; images; financial records; personally identifiable information; personal health information (PHI); personnel, educational, voting, registration, tax and assessment records; information related to public safety; County networked resources; and County databases, software and security measures that are created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) **County's Non-Disclosure and Data Security Agreement.** The Contractor and its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or sub-contractors Working on-site at County facilities or otherwise performing any Work under this Contract) must sign the NDA (Exhibit E) before performing any Work or obtaining or permitting access to County networked resources, application systems or databases. The Contractor will make copies of the signed NDAs available to the County Project Officer upon request.
- (b) **Use of Data.** The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees. Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.

- (c) **Data Protection.** The Contractor will protect the County's Information according to standards established by the National Institute of Standards and Technology, including 201 CMR 17.00, Standards for the Protection of Personal Information of Residents of the Commonwealth and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data and proprietary or confidential information. The Contractor must provide to the County a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s). If requested by the County, the Contractor must also provide annually the results of an internal Information Security Risk Assessment provided by an outside firm.
- (d) **Security Requirements.** The Contractor must maintain the most up-to-date anti-virus programs, industry-accepted firewalls and other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact with or store County Information meet the above standards and industry best practices for physical, network and system security requirements. Printers, copiers or fax machines that store County Data into hard drives must provide data-at-rest encryption. The County's Chief Information Security Officer or designee must approve any deviation from these standards. The downloading of County information onto laptops, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.
- (e) **Conclusion of Contract.** Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, return all County Information to the County in a format defined by the County Project Officer. The County may request that the Information be destroyed. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its sub-contractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (f) **Notification of Security Incidents.** The Contractor must notify the County Chief Information Officer and County Project Officer within Twenty-Four (24) hours of the discovery of any unintended access to or use or disclosure of County Information.
- (g) **Sub-Contractors.** If sub-contractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the sub-contractor. If the sub-contractor will have access to County Information, each sub-contractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

22. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.).

The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or sub-contractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

23. COUNTY EMPLOYEES

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

24. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract.

25. AUTHORITY TO TRANSACT BUSINESS

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

26. RELATION TO COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or sub-contractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including Workers' compensation.

27. ANTITRUST

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

28. REPORT STANDARDS

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

Whenever possible, reports must comply with the following guidelines:

- printed double-sided on at least 30% recycled-content and/or tree-free paper
- recyclable and/or easily removable covers or binders made from recycled materials (proposals with glued bindings that meet all other requirements are acceptable)
- avoid use of plastic covers or dividers

- avoid unnecessary attachments or documents or superfluous use of paper (e.g. separate title sheets or chapter dividers)

29. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within Fifteen (15) consecutive calendar days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within Thirty (30) consecutive calendar days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor.

If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within Five (5) years after the Final Payment, the Contractor must give the County at least Thirty (30) consecutive calendar days' notice and must not dispose of the documents if the County objects.

30. ASSIGNMENT

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

31. AMENDMENTS

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

32. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

33. DISPUTE RESOLUTION

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional Work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than Sixty (60) days after the Final Payment. The time limit for a final written decision by the County Manager is Thirty (30) days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to Work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

34. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

35. ARBITRATION

No claim arising under or related to this Contract may be subject to arbitration.

36. NONEXCLUSIVITY OF REMEDIES

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

37. NO WAIVER

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

38. SEVERABILITY

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

39. ATTORNEY'S FEES

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

40. SURVIVAL OF TERMS

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: **INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND CONFIDENTIAL INFORMATION or DATA SECURITY AND PROTECTION.**

41. HEADINGS

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

42. AMBIGUITIES

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

43. NOTICES

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

TO THE CONTRACTOR:

**Lindsay Bergstrom, Regional Finance Director
PTV Group
1530 Wilson Boulevard
Suite 510
Arlington, Virginia 22209
Telephone: 571-645-5980**

TO THE COUNTY:

**Andy Anton, Design Engineer-Project Officer
Department Environmental Services
Transportation Engineering and Operations
2100 Clarendon Boulevard
Suite 900
Arlington, Virginia 22201
Telephone: 703-228-7098**

AND

**Shirley Diamond, Procurement Officer
Office of the Purchasing Agent
Management and Finance
2100 Clarendon Boulevard
Suite 500
Arlington, Virginia 22201
Telephone: 703-228-3424**

44. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 ("Licenses") of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

45. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

46. LIMITED ENGLISH PROFICIENCY

The Contractor must comply with Executive Order 13166, Title VI of the Civil Rights Act of 1964 and make reasonable efforts to ensure that as part of the services that it provides, adequate communication services, including interpretation and translation, are available to persons who have limited English proficiency. If such services are not included in the Contract's scope of services and pricing, the Contractor will use a County-contracted service provider, and the County will pay the fees.

47. ACCESSIBILITY OF WEB SITE

If any Work performed under this Contract results in the design, development or maintenance of or responsibility for the content or format of any County web sites or for the County's presence on third-party web sites, the Contractor must perform such Work in compliance with ADA.

48. ADA COMPLIANCE

The Contractor is solely responsible for its compliance with the ADA and must defend and hold the County harmless from any expense or liability arising from the Contractor's non-compliance. The Contractor also must respond promptly to and cooperate fully with all inquiries from the U.S. Department of Labor.

The Contractor's responsibilities related to ADA compliance include, but are not limited to, the following:

- a. **Access to Programs, Services and Facilities:** The Contractor must ensure that its programs, services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor must provide equivalent services in an accessible alternate location or manner.
- b. **Effective Communication:** Upon request, the Contractor, must provide appropriate communication aids and services so that qualified persons with disabilities can participate equally in the Contractor's programs, services and activities. Communication aids and services can include, but are not limited to, qualified sign language interpreters, Braille documents and other means of facilitating communications with people who have speech, hearing or vision impairments.
- c. **Modifications to Policies and Procedures:** The Contractor must modify its policies and procedures as necessary to ensure that people with disabilities have an equal opportunity to enjoy the Contractor's programs, services and activities. For example, individuals' service animals must be allowed in the Contractor's offices or facilities, even if pets are generally prohibited.
- d. **No Extra Charges:** The Contractor may not charge a person with a disability or any group of individuals with disabilities to cover the cost of providing aids or services or of reasonable modifications to policies and procedures.

49. LIVING WAGE

The provisions of Section 4-103 of the Arlington County Purchasing Resolution (regarding "Service Contract Wage" or "Living Wage") are not applicable to this Contract. However, if at any time during the term of this Contract the total amount paid to the Contractor during the Contract Term equals or exceeds \$100,000, the Contract will become subject to the Living Wage provisions, and the Contractor must immediately contact the County Purchasing Agent to obtain instructions and documents required for compliance.

If the Contract becomes subject to the Living Wage provision after execution, the County may allow the Contractor to amend the Contract to reflect the additional costs of compliance with the Living Wage provisions. If the Contractor desires to amend the Contract, it must first submit the names of all employees who will be affected by the Living Wage provisions, their positions and wage rates before and after the compliance date, and the total change in direct labor costs that result from the Living Wage compliance.

50. INSURANCE REQUIREMENTS

Before beginning Work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of "A-" or better and a financial size of "Class VII" or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory Workers compensation (W/C) coverage, including Virginia benefits and employer's liability with limits of \$100,000/100,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- a. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be named as additional insureds on all policies except Workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- b. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- c. Claims-Made Coverage - Any "claims made" policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- d. Contract Identification - All insurance certificates must state this Contract's number and title.
- e. Environmental Impairment Liability, including coverage of insureds' on-site clean up, with the following minimum limits of liability:

Bodily Injury and Property	2,000,000 each occurrence
Damage Liability	4,000,000 annual aggregate

The County Board of Arlington County, Virginia, is to be named in Additional Name Insured or a Broad Form Contractual Endorsement may be added to the policy as respects any liability that may arise out of or result from the handling of Work on this Project including specifically but without limitation thereto, the indemnity provisions in the Agreement. Such policies will be

endorsed to provide that they are primary to an insurance carried by the County Board of Arlington County, Virginia.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County's approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County's acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any Work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its sub-contractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

51. COUNTERPARTS

This Agreement may be executed in one or more counterparts and all of such counterparts shall together constitute one and the same instrument. Original signatures transmitted and received via facsimile or other electronic transmission, (e.g., PDF or similar format) are true and valid signatures for all purposes hereunder and shall be effective as delivery of a manually executed original counterpart.

52. CONTRACTOR PERFORMANCE EVALUATION

Arlington County will perform written evaluations of the Contractor's performance at various interval throughout the life of this Contract. At a minimum, evaluations will be completed at Fifty Percent (50%) of Contract Term or within Sixty (60) consecutive calendar days from Final Completion of the Work and prior to the Final Payment being made to the Contractor.

The evaluations will address the Contractor's work quality, cost controls, schedule, timeliness and sub-contractor management. The Project Officer will be responsible for completing the evaluations and will provide a copy to the Contractor and County Procurement Officer.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

CONTRACTOR

AUTHORIZED
SIGNATURE: _____

AUTHORIZED
SIGNATURE: Lindsay Bergstrom

NAME: SHIRLEY DIAMOND
TITLE: PROCUREMENT OFFICER

NAME: LINDWAY BERGSTROM
TITLE: REGIONAL FINANCE DIRECTOR

DATE: _____

DATE: 04/09/2020

EXHIBIT – A

SCOPE OF WORK

1. Introduction/Background

The Bureau of Transportation Engineering and Operations (TE&O) within the Department of Environmental Services, Division of Transportation, manages traffic related operations along approximately Three Hundred Seventy-Five (375) miles of roadways incorporating approximately Three Hundred (300) traffic signals within Arlington County's jurisdiction.

The transportation network is comprised of facilities that serve pedestrians, bicycles, regular and specialized vehicles, regional and local transit and other modes of travel to, through and from the County for work and non-work-related trips. The effective management of this complex network is significantly enhanced by the use of specialized multi-modal traffic simulation software and its application is essential to achieve the following benefits:

- A. Minimization of delays, queues and other negative effects of traffic congestion in transportation corridors throughout the County;
- B. Maximum efficient utilization of existing public and private transportation systems and HOV infrastructure;
- C. Enhancement of the County as a location for businesses, residences and recreational activities;
- D. Improvements in air quality and reductions in the consumption of non-renewable fuels;
- E. Enhanced safety for all users of the transportation system as well as those impacted by it, and
- F. Increased mobility for the elderly, disabled and other users with unique demands.

Scope of Services

The Contractor shall provide software maintenance for the VISSIM as well as VISUM, Vistro and related products, developed by Planung Transport Verkehr (PTV) Group, that allows for microscopic multi-modal traffic flow simulation and provides state-of-the-art transportation planning and operations analysis. The Contractor will also provide support and maintenance, as detailed in the Support and Maintenance Agreement in addition to;

- 3.1. Unlimited technical support
- 3.2. Software updates
- 3.3. New software versions

2. TASKS

A. Software

PTV Vision Traffic Suite Software Maintenance will include the following:

- PTV Vissim Advanced Plus Maintenance;
- PTV Vissim Advanced Plus Maintenance;
- PTV Visum Size 2 Maintenance; and
- PTV Vistro Maintenance.

B. Software Maintenance

PTV Vision Traffic Suite Software Maintenance shall include:

- Unlimited technical support;
- Software updates; and
- New software versions

Deliverables

Network compatibility devices will be provided as appropriate. Software updates will be provided digitally. Deliverables for high intensity support for Optional Model Review and training sessions will be provided as agreed upon.

EXHBIT – B
PTV AMERICA INC.- PRICE QUOTE

PTV America, Inc.

1530 Wilson Blvd., Suite 510
Arlington, VA 22209
Phone: (800) 608-0377
Email: sales.us@ptvgroup.com

Federal Tax ID: 93-1298868
Canadian GST/HST Registration: 845944038



the mind of movement

Quote

SHIP TO:
Joshua Nicholas
Arlington County VA
2100 Clarendon Blvd. Suite 900
Clarendon, VA 22201-5404
United States

BILL TO:
Joshua Nicholas
Arlington County VA
2100 Clarendon Blvd. Suite 900
Clarendon, VA 22201-5404
United States

Quote #: Q-00619-2
Date: 3/11/2020 12:39 PM
Expires On: 4/30/2020 110835
Customer No:
Maintenance Period: 3/1/2020-2/28/2025

Thank you for your continued use of PTV Vision Traffic Suite Software. Outlined below is the Annual Maintenance for all licenses assigned to your account. Software Maintenance includes unlimited technical support, background imagery maps, software updates, and new versions. Please note, PTV's minimum maintenance fee is \$750.00 USD.

Maintenance

Qty	Product	CodeMeter Dongle S/N	PTV Product Code	Original Price	Network Increase	Multiple License Discount	Multiple Product Discount	Tax	Total USD
5.00	PTV Vissim Advanced Plus Maintenance	2-1647965	900083503	\$4,305.00	25%	13%	10%	\$0.00	\$20,014.20
5.00	PTV Visum Size 2 Maintenance	2-1647965	900083503	\$2,400.00	25%	13%	10%	\$0.00	\$11,157.75
5.00	PTV Vistro Maintenance	2-1647965	900083503	\$592.50	25%	13%	0%	\$0.00	\$3,060.60
5.00	PTV Vissim Advanced Plus Maintenance	2-1647966	900083502	\$4,305.00	25%	13%	10%	\$0.00	\$20,014.20

Qty	Product	CodeMeter Dongle S/N	PTV Product Code	Original Price	Network Increase	Multiple License Discount	Multiple Product Discount	Tax	Total USD
5.00	PTV Visum Size 2 Maintenance	2-1647966	900083502	\$2,400.00	25%	13%	10%	\$0.00	\$11,157.75
5.00	PTV Vistro Maintenance	2-1647966	900083502	\$592.50	25%	13%	0%	\$0.00	\$3,060.60
5.00	PTV Vissim Advanced Plus Maintenance	2-2547259	900083501	\$4,305.00	25%	13%	10%	\$0.00	\$20,014.20
5.00	PTV Visum Size 2 Maintenance	2-2547259	900083501	\$2,400.00	25%	13%	10%	\$0.00	\$11,157.75
5.00	PTV Vistro Maintenance	2-2547259	900083501	\$592.50	25%	13%	0%	\$0.00	\$3,060.60
								Maintenance Discount:	\$5,405.25
								Maintenance Total USD:	\$102,697.65

Additional Comments:

Please verify that all the information listed above is correct, including the shipping and billing address

Signature: Joshua Nicholas Approved Date: 04/07/2020
Name, Title (Print): Joshua Nicholas, ITS Manager

Terms & Conditions:

This quote is subject to PTV's standard Terms and Conditions, as well as the End User License Agreement. Copies of these agreements are available online and upon request. The software and the accompanying CodeMeter dongles associated with this quote are valid exclusively for usage within North America and cannot be transferred to international locations or a separate entity without the applicable transfer fees and written agreement of PTV America.

- Terms & Conditions: http://ptvtraffic.com/gtc_ptv_america_en/
- End User License Agreement: <http://ptvtraffic.com/end-user-license-agreement/>

To initiate an order, please sign and date the quote or deliver a PO to sales.us@ptvgroup.com or to your account representative

THANK YOU FOR YOUR BUSINESS!

EXHIBIT – C

PTV AMERICA INC.- END USER LICENSE AGREEMENT

**PTV AMERICA, INC.
END USER LICENSE AGREEMENT**

PLEASE READ THIS END USER LICENSE AGREEMENT BEFORE PURCHASING OR USING PTV AMERICA, INC. ("PTV") SOFTWARE, DATA, DOCUMENTATION, OR OTHER INFORMATION (THE LICENSED MATERIALS" AS FURTHER DEFINED IN SECTION 1.2 BELOW), EITHER BY CLICKING AN ACCEPTANCE OR BY EXECUTING AN ORDER FORM OR STATEMENT OF WORK THAT REFERENCES TO THIS AGREEMENT. CUSTOMER AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT WHICH GOVERN CUSTOMER'S PURCHASE AND USE OF THE LICENSED MATERIALS. IF CUSTOMER DOES NOT ACCEPT THE TERMS OF THIS AGREEMENT, THEN IT MUST NOT PURCHASE NOR USE THE LICENSED MATERIALS.

1 Parties, Scope

- 1.1 This End User License Agreement (this "Agreement") is made by and between PTV and such entity (the "Customer") that receives and/or uses the Licensed Materials (as defined below) from PTV, and/or has entered into an agreement upon the delivery and use of such Licensed Materials with PTV or an affiliate, reseller or other contractual partner of PTV (a "Third Party Distributor"); provided that such agreement makes reference to this Agreement. The contractual parties of this Agreement shall be PTV and the Customer, even if the Customer received the Licensed Materials from a Third-Party Distributor.
- 1.2 This Agreement shall cover any software ("Software"), data and other information of PTV delivered to the Customer in a tangible (e.g., on a data carrier) or intangible (e.g., via download) form, whether protected by copyright or not, in any format (source code, object code, etc.) (collectively, the "Licensed Materials"). The Licensed Materials shall also include without limitation, all user documentation regarding the use of the Software, such as user guides, technical documentation, translation and/or other material (the "Documentation").
- 1.3 Unless no agreement is made to the contrary (e.g., in a support or maintenance agreement), this Agreement shall also cover any Licensed Materials that were submitted to the Customer in the course of maintenance, or to remedy any bugs or defects.
- 1.4 All rights granted to the Customer under this Agreement are limited to:
- a) the version of the Licensed Materials initially delivered to the Customer; and
 - b) service packs to the Licensed Materials delivered to the Customer in the course of the fulfillment of warranty obligations (if any).

Updates and updated versions of the Licensed Materials may only be used if such updates or updated versions were delivered to the Customer under a maintenance

agreement and the Customer has paid any and all maintenance fees owed pursuant to such maintenance agreement.

2 Intellectual Property Rights, License

- 2.1 All right, title, interest and intellectual property rights in the Licensed Materials (including but not limited to, copyrights, trademarks, service marks, patents, trade secrets, and ancillary rights) shall solely vest in PTV or its licensors.
- 2.2 PTV reserves the right to technically protect the Licensed Materials against illegitimate copying, use or distribution with security devices such as dongles, passwords or similar protections.
- 2.3 PTV hereby grants the Customer a revocable, non-exclusive and non-transferable (except as otherwise expressly provided herein) license and right to use the Licensed Materials solely for Customer's internal purposes (the "License"). The Customer agrees to uphold any contractual provisions and restrictions regarding the use of the Licensed Materials (e.g., limitation of the number of users, installations, term, territory area, scope, etc.) and agrees to use adequate technical measures to ensure compliance with such provisions and restrictions. The Customer shall be responsible and liable for any and all obligations hereunder and any acts and/or omissions of any users of the License.
- 2.4 The Customer's License shall commence pursuant to Paragraph 5 herein. For the Software, the Customer's right to use is limited to the object code version only and shall not include the source code. PTV shall not be under the obligation to provide the Customer with any source code.
- 2.5 PTV reserves all rights not expressly granted to the Customer hereunder, and any use of the Licensed Materials not explicitly allowed in this License Agreement is subject to the prior written consent of PTV, which PTV may give in its sole discretion.

3 Usage and Copy Restrictions

- 3.1 The Customer has the right to make one copy of the Licensed Materials solely for its own security backup purposes. Any backup copy must be stored safely and must be labeled with a correct copyright notice, which may not be removed, altered or inhibited. The Documentation may only be copied for the Customer's internal purposes as necessary for use of the Licensed Materials.
- 3.2 Except as and only the extent permitted by applicable law, the Customer or any third party on Customer's behalf may not decompile, reverse engineer, disassemble, attempt to derive the source code of, decrypt, modify, translate or create derivative works of the

Licensed Materials, or any updates or new versions, or any part thereof. Any attempt to do so is a violation of the rights of PTV and/or of its licensors. The Customer may not rent, lease, lend, redistribute, sublicense, or outsource the Licensed Materials, or offer them as a software-as-a-service, or make the Licensed Materials available on a public network.

- 3.3 The Customer may not disclose, transfer, dispose of, resell or distribute any personal security information or security items related to the Licensed Materials such as passwords, user accounts, security tags, etc. (collectively, "Security Devices"), unless such Security Devices are necessary to properly operate the Licensed Materials.

4 Transfer of Licensed Materials

- 4.1 The Licensed Materials and any accompanying dongles are valid for use solely within North America and may not be transferred to locations outside of North America without PTV's prior written consent.
- 4.2 Except upon PTV's written consent and except as expressly set forth herein, the Customer may not transfer the Licensed Materials. Any permitted transfer is subject to the following provisions:
- a) The Customer may only transfer the whole License and installation of the Licensed Materials, and may not transfer any portion of such License, such as particular usage rights for a contractually agreed number of users, transactions, or items, etc. If the Licensed Materials are to be installed on a server and run on a designated number of Customer computers, the Customer may not transfer usage rights for a number of Customer computers without transferring the server installation.
 - b) Dongles may only be sold or imparted along with the associated Licensed Materials.
 - c) Any transfer must be of permanent nature, i.e., without any option or claim of the Customer to receive the Licensed Materials back after a fixed or variable period of time.
 - d) The transferee of the Licensed Materials must agree in writing to uphold all of the terms and conditions of this Agreement.
 - e) The Customer must notify PTV in writing of any such requested transfer and provide PTV with the details regarding the transferee.

5 Commencement and Termination

- 5.1 The License granted to the Customer pursuant to Paragraph 2 shall become effective as of the date identified in the Customer's order document (an "Order Form").
- 5.2 If there is an identified license term in the Order Form, this Agreement will terminate upon the expiration of such license term. PTV may terminate this Agreement upon written notice to the Customer for a breach hereof, or if any third party restricts, prevents or ceases to authorize the installation or use of the Licensed Materials. In addition, the

License shall terminate immediately and automatically upon any termination or expiration of this Agreement, or any breach by the Customer of the restrictions included herein, or any unauthorized use of the Licensed Materials.

- 5.3 Upon any such termination or expiration, the Customer shall no longer be permitted to use the Licensed Materials, the Customer must return to PTV all data carriers all dongles and all other devices received from PTV, the Customer shall delete or destroy any and all copies of the Licensed Materials in its possession, and an officer of the Customer shall promptly confirm in writing to PTV that such return, deletion and/or destruction was completed successfully.
- 5.4 Termination of this License or the Agreement shall not entitle the Customer to any refund, credit, or other compensation from PTV or from any third party.

6 Confidentiality

For purposes herein, "Confidential Information" shall be all confidential or proprietary information or materials which have been or made available by PTV to the Customer in connection with this Agreement, whether provided orally or in writing, and in any form or media. The Customer shall hold the Confidential Information of PTV in trust and confidence and avoid the unauthorized disclosure or release thereof to any other person or entity by using the same degree of care as the Customer uses to avoid unauthorized use, disclosure, or dissemination of its own Confidential Information, and in no event less than a reasonable degree of care. The Licensed Materials are the confidential information of PTV. The Customer must inform and instruct its employees of this confidentiality obligation. Upon the written request of PTV, the Customer shall promptly return or destroy the Confidential Information, including all copies thereof.

7 Academic License/Classroom License

- 7.1 PTV supports academic research and teaching by offering the Licensed Materials under specific terms and conditions under an "Academic License."
- 7.2 If the Customer obtains an Academic License from PTV, the Customer agrees to use the Licensed Materials solely for research and teaching purposes, and any commercial use is expressly prohibited.
- 7.3 Compliance with the Academic License is monitored by PTV by collecting usage data.
- 7.4 If the Customer has an Academic License, the Customer also has the option to receive a limited classroom version of the Licensed Materials (a "Classroom License") with an identified number of users on a semester-by-semester basis. Any commercial use of a Classroom License is expressly prohibited.

8 Training License

PTV offers a version of the Licensed Materials for training purposes with limited functionality for download under specific terms and conditions under a "Training License." If the Customer obtains a Training License from PTV, the Customer agrees to use the Licensed Materials solely for training purposes only, and any commercial use is expressly prohibited.

9 Demonstration/Evaluation Version

If the Customer receives a demonstration or evaluation version of the Licensed Materials (a "Demo Version"), any rights to use the Licensed Materials under such Demo Version shall be subject to the terms and conditions hereof, and shall end thirty (30) days after its delivery or download, unless otherwise agreed in writing by PTV. Notwithstanding anything stated in Paragraph 4 hereof, the Customer may not transfer any Demo Version of the Licensed Materials to a third party.

10 Geographical Restrictions

- 10.1 The Customer acknowledges that the use of the Licensed Material may be subjected to specific geographical restrictions arising out of applicable foreign laws and regulations, which may be updated from time to time. It is the Customer's sole responsibility to acknowledge applicable foreign laws and regulations and ensure to comply with them during the duration of the license term.
- 10.2 Through the Service, PTV may provide the Customer with map data (among others) for the People's Republic of China in compliance with the use case and the terms of this Agreement. Should the People's Republic of China no longer enable map data provisioning, regardless of the legal basis, PTV shall notify the Customer promptly of the occurrence of such events in writing. Any warranty and/or liability claims by the Customer as well as the obligation to exempt from third-party rights shall not apply with regard to this paragraph 10. The contractually agreed compensation shall be reduced with effect as of the end of the exploitation rights. The reduction is based on the following remuneration models:
- 1) In case of monthly payments, the remaining month, during which the data can no longer be used, shall be credited according to the following formula: Days of the month that were overcharged * cost per day for data according to quote = reimbursement
 - 2) In case of annual payments, the remaining months and days during which the data can no longer be used, shall be credited according to the following formula: (Days of the month that were overcharged for a pro-rata month * cost per day for data according to quote) + (Months that were overcharged * cost per month for data according to quote)

= reimbursement

- 3) If transaction packages are acquired, transactions not used during the license period will be credited according to the following formula: Price per transaction * number of transactions not used as part of the acquired transaction package = reimbursement

Further claims by the Customer shall be excluded.

11 Payment; Audit Rights

- 11.1 During the term of this Agreement, the Customer agrees to pay PTV for all fees associated with the Customer's License of the Licensed Materials in accordance with the terms of PTV's invoices.
- 11.2 During the term of this Agreement and for a period of two (2) years thereafter (the "Audit Period"), the Customer agrees to keep and maintain complete and accurate records sufficient to verify Customer's compliance with the terms of this Agreement, including without limitation, payment of applicable fees ("Records"). During the Audit Period, PTV (or a designated representative of PTV) may perform an inspection and audit of the Records, upon ten (10) days prior written notice to the Customer, regarding whether the Customer's use of the Licensed Materials is consistent with the terms of this Agreement. Any such audit will be performed during Customer's normal business hours and in a manner that does not unreasonably interfere with the Customer's normal business operations. The Customer agrees to cooperate with PTV (or its designated representative) during the conduct of any such audit.
- 11.3 If the audit shows that the use of Licensed Materials is inconsistent with the terms hereof or reveals underpayment by the Customer, the Customer shall promptly cure such inconsistency and/or pay any such underpaid amounts. PTV will bear the costs of the audit; provided, however, that if the audit reveals an underpayment by the Customer by more than five percent (5%), the Customer will reimburse PTV for the cost of the audit. Any other claims and remedies of PTV shall remain unaffected.

12 Contractual Penalty

The Client shall pay to PTV for each instance of a culpable breach of the obligations pursuant to this Software License Agreement a reasonable contractual penalty to be determined by PTV and verified as to its reasonableness by the competent court in case of dispute. PTV reserves the right to claim further damages.

13 Limited Warranty; Indemnity

PTV and the Customer each represent and warrant that it has the right, power and authority to enter into, and perform its obligations under, this Agreement, and each order form or statement of work related hereto. The Customer will defend PTV against any

claim, demand, suit or proceeding made or brought against PTV by a third party alleging that any of the data that the Customer uploads into the Software, or the Customer's use of the Licensed Materials in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "Claim"), and will indemnify PTV from any damages, attorney fees and costs finally awarded against PTV as a result of, or for any amounts paid by PTV under a court-approved settlement of, a Claim, provided PTV (a) promptly gives the Customer written notice of the Claim, (b) gives the Customer sole control of the defense and settlement of the Claim (except that the Customer may not settle any Claim unless it unconditionally releases PTV of all liability), and (c) gives the Customer all reasonable assistance, at the Customer's expense.

14 Product-specific provisions; General Terms and Conditions

The use of specific PTV products may be subject to certain product-specific license terms of PTV and/or third parties having rights in parts of the Licensed Materials ("Product-Specific License Terms"). Any such third parties may be, without limitation, open source software developers and/or map data providers. The website <http://vision-traffic.ptvgroup.com/de/drittkomponenten/> provides an overview with respect to third-party components and refers to the applicable Product-Specific License Terms. Product-Specific License Terms shall supersede the terms of this Agreement. In the event that maps of the Open Street Map ("OSM") project are used within the Licensed Materials, the Customer will enter into a direct legal relationship with the OSM licensor for the usage of OSM according to the license terms as stated within <https://opendatacommons.org/licenses/odbl/1.0/>. In addition, PTV's General Terms and Conditions http://ptvtraffic.com/gtc_ptv_america_en/ apply to the Licensed Materials and any services provided by PTV in connection with the Licensed Materials hereof.

15 Miscellaneous

- 15.1 This Agreement shall be governed by, construed in accordance with, and subject to, the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles. In the event of a dispute or claim arising under this Agreement, the parties expressly agree to the sole, exclusive and personal jurisdiction and venue of the federal or state courts located in Arlington County, Virginia. The prevailing party in any such dispute and/or proceeding shall be entitled to recover its costs and expenses incurred (including reasonable attorneys' fees and expenses) in any such dispute or proceeding. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement.
- 15.2 No amendment to, or any waiver of any provision in, this Agreement will be effective unless it is in writing and signed by the Customer and PTV.
- 15.3 The Customer agrees to comply with all applicable laws, rules, regulations and orders with respect to this Agreement and the Licensed Materials.

- 15.4 The Licensed Materials provided hereunder are "Commercial Items" as that term is defined in the Federal Acquisition Regulations (FAR) at 48 C.F.R. 2.101. If Customer is a unit or agency of the United States Government, the following applies: The Licensed Materials are provided with Restricted Rights. Use, duplication or disclosure by the Government is subject to restrictions as set forth in Subparagraphs (a) through (d) of the Commercial Computer-Restricted Rights clause at FAR 552.227-19 when applicable, or in Subparagraph 252.227-2013 of the Rights in Technical Data and Computer Software at DFARS, and in similar clauses in the NASA FAR Supplement.

EXHIBIT – D

PTV AMERICA INC.- GENERAL TERMS AND CONDITIONS

PTV America, Inc. General Terms and Conditions

I. General Provisions

§ 1 Performance

1.1. ALL THE PROVISIONS OF THESE TERMS AND CONDITIONS ("TERMS") SHALL APPLY BETWEEN PTV AMERICA, INC. (" PTV") AND CUSTOMER (COLLECTIVELY, THE "PARTIES"), EXCEPT WHERE EXPLICITLY AGREED OTHERWISE IN WRITING BY BOTH PARTIES. THE CONDITIONS CONTAINED HEREIN SHALL TAKE PRECEDENCE OVER ANY OTHER CONDITIONS, AND NO CONTRARY, ADDITIONAL OR DIFFERENT PROVISIONS OR CONDITIONS SHALL BE BINDING ON BOTH PARTIES UNLESS EXPRESSLY ACCEPTED BY BOTH PARTIES IN WRITING. IN THE EVENT OF ANY POSSIBLE CONFLICTS BETWEEN THESE TERMS AND AN AGREEMENT OR AN ORDER FORM ("ORDER FORM") THAT IS ACCEPTED BY BOTH PARTIES IN WRITING, THE PROVISIONS SET FORTH IN THE AGREEMENT OR THE ORDER FORM SHALL PREVAIL. ANY AGREED UPON ORDER FORM, STATEMENT OF WORK OR OTHER AGREEMENT TO PROVIDE A SPECIFIC SYSTEM, SOFTWARE, OR SERVICES AS DEFINED BELOW IN THIS SECTION 1.1, TOGETHER WITH THESE TERMS, SHALL EXCLUSIVELY GOVERN THE PARTIES' OBLIGATIONS. Except for Online Services as described in Section 1.2. the following items shall be governed by these Terms:

- Delivery of Software, Data, or Documentation ("Licensed Materials");
- Services related to Installation, Configuration and Customization of Licensed Materials;
- Consulting Services; and
- Maintenance and Support Services
(collectively, all of the foregoing services hereinafter referred to as the "Services").

1.2. These Terms shall not apply with respect to any online services such as the provision of websites and internet portals, application services providing and/or software-as-a-service (collectively "Online Services"). Regarding any Online Services, the terms of use agreed upon registration by Customer related to such Online Services shall apply and govern such Online Services.

1.3. Furthermore, these Terms shall not apply with respect to any contractual agreements where PTV is the purchaser of goods or services. Regarding such agreements, only the General Procurement Terms and Conditions of PTV or other individual contractual arrangements between PTV and the applicable provider shall apply.

1.4. Statements and/or representations contained in any test programs, product and project descriptions shall not be considered guarantees or warranties with respect to the quality of any Services or Licensed Materials provided by PTV. Any guarantee or warranty shall require the express and written confirmation of PTV. Samples, descriptions, representations, and other information contained in PTV catalogues, advertisements, or other promotional materials or statements or representations made by PTV's employees or sales representatives are for general informational purposes only and are not binding upon PTV.

1.5. The terms and conditions for Maintenance and Support services offered by PTV for the Licensed Materials are set forth in the applicable Maintenance Terms, as may be changed by PTV.

§ 2 Intellectual Property and Ownership

2.1. Any Licensed Materials shall at all times remain PTV's sole property and shall be subject to copyright protection and may be protected by further intellectual property rights. Between the Parties, PTV or its licensors shall exclusively own and retain title to and ownership of all intellectual property rights in the Licensed Materials. PTV does not transfer any portion of such title and ownership, or any of the associated goodwill to Customer. All rights which are not expressly granted are reserved.

2.2. The Customer shall be provided with a non-exclusive license to utilize the Licensed Materials as described in the applicable End User License Agreement ("EULA"), as may be changed by PTV.

2.3. The Customer agrees to take all reasonable steps to protect the Licensed Materials and Services from unauthorized copying or use, and further agrees to promptly report any instances of suspected copyright and/or other intellectual property infringement to PTV, and to provide PTV with reasonable assistance, at PTV's expense, in investigating and prosecuting any such infringement.

§ 3 Customer's Cooperation

3.1. The Customer shall reasonably cooperate, assist, and provide PTV with any necessary support in connection with the performance of PTV's duties and obligations hereunder. Customer shall make available the hardware, operating system and basic software and provide telecommunications facilities and the required number of staff. Customer shall also provide PTV, in a timely fashion, with any and all information required for the performance of its duties and obligations hereunder. Insofar as it is useful or necessary for the performance of PTV's duties and obligations, Customer shall grant PTV access to the Customer's business premises during normal business hours.

3.2. If applicable, Customer shall establish a remote access for PTV on any of its information technology (IT) systems for which PTV is providing any Services for or needs to have access to perform its duties and obligations hereunder.

3.3. Customer shall take appropriate precautions if any Licensed Materials fail to properly operate, in part or as a whole, by performing regular data backups, conducting constant failure diagnosis and inspection, etc. Customer shall perform a full backup of its data before installing any Licensed Materials on its IT systems.

§ 4 Deliveries and Delay

4.1. Any dates provided by PTV with regard to any delivery times shall be non-binding, unless expressly stipulated by PTV as "legally binding dates." Partial deliveries shall be permissible if Customer is able to make reasonable use thereof. PTV shall not be liable for any delay in performance, or in the delivery or shipment of Licensed Materials, for any such non-binding or delayed deliveries, or for any damages suffered by Customer by reason of such delay. PTV may suspend or delay performance or delivery at any time pending receipt of assurances, including full or partial prepayment or payment of any outstanding amounts owed, adequate to PTV in its discretion, of Customer's ability to pay. Failure to provide such assurances shall entitle PTV to terminate these Terms without further liability or obligation to Customer.

4.2. Periods of delivery shall be extended by the period in which PTV is prevented, for reasons beyond its control, from providing the contractually agreed services including but not limited to, due to any labor disputes, any acts of God, terrorist acts, hacking attempts, or any other unusual and unforeseeable events (collectively "Force Majeure Events"), as well as an appropriate period for restarting after the end of such Force Majeure Event. If a Force Majeure Event lasts for more than three (3) months, either Party shall have the right to cancel any pending Order Form, or, if the respective Order Form constitutes continuing obligations, terminate the underlying agreement. In such case, any prepaid compensation shall be repaid, on a pro rata basis, in accordance with applicable statutory provisions.

4.3. Periods of delivery shall be extended by the period PTV is being delayed in its performance due to, or resulting from, a lack of Customer's information or cooperation, in addition by an appropriate period for restarting after the end of Customer's delay.

4.4. Any reminders for legally binding time limits agreed upon by the Parties shall be made in writing. In the event that PTV is in default with respect to a delivery, Customer shall notify PTV of such default with

reasonable details, and shall be entitled to terminate the applicable Order only in the event that PTV does not, or is unable to, cure such default within thirty (30) days following such written notice from Customer.

§ 5 Payment, Retention of Rights

5.1. Unless stipulated otherwise on PTV's invoices, payments shall be due within thirty (30) days of the date of PTV's invoice.

5.2. All late payments of invoices by Customer shall bear interest at a rate of one percent (1%) per month during which any sums under such invoices were owed and unpaid, or the highest rate allowed by law, whichever is lower. Following a period of ten (10) days from the date on which Customer is notified that it has late payments due that exceed the payment terms defined in Section 5.1 and for which said sums are owed and unpaid, the obligation of PTV to perform under this Agreement may, at the sole option of PTV, be suspended, including but not limited to, disabling Customer's access to the Licensed Materials or suspending Services until receipt of payment in full. Upon expiration of the aforesaid ten-day cure period without payment, no further notice or other obligation to Customer is required. Any failure of Customer to make payment of any payment invoice in the manner described in this Section 5 shall be deemed a material breach of this Agreement by Customer.

5.3. Title to any of the Licensed Materials and any rights under Section 2 hereof or under an EULA (if applicable) shall not pass to Customer before full payment of any fees due is made by Customer.

5.4. In case of any termination of Customer's rights pursuant to Section 2 hereof or an EULA, PTV may require that the Customer return any Licensed Materials provided or, if they cannot be returned, that the Licensed Materials be irreversibly deleted or destroyed. In the latter case, Customer shall provide PTV with a written certification to that effect.

§ 6 Intellectual Property Indemnity

6.1. Customer shall be solely responsible for proper selection, application, and use of the Licensed Materials and Services, as well as the incorporation/integration of the Licensed Materials into other Customer equipment or systems. Customer shall indemnify and hold PTV harmless from and against any and all damages, liabilities, claims, or expenses (including reasonable attorneys' fees and expenses) arising out of or relating to: (a) improper selection, application, installation, use or incorporation/integration of the Licensed Materials and/or Services; (b) infringement of any patent, trademark, copyright or other third party interest arising out of PTV's compliance with any of Customer's designs, specifications, or instructions; or (c) violation of any applicable laws or regulations, including but not limited to, U.S. Export Controls laws. Upon PTV's prompt written request, Customer shall defend PTV, at its expense, in any such suit or action brought against PTV.

6.2. Subject to this Section 6, PTV agrees, at its own expense, to pay all Damages (as defined below) and defend Customer from (or at PTV's option, settle) any claim instituted by a third party and asserted against Customer that the Licensed Materials when used in accordance with the applicable Documentation, or the Services (if any), infringe any patent, copyright, trade secret or other proprietary right of a third party (an "IP Claim"), provided that Customer: (a) promptly notifies PTV in writing of any such IP Claim; (b) gives PTV sole control over the investigation, preparation, defense and settlement of the IP Claim; and (c) assists and fully cooperates with PTV in the defense of same. PTV agrees to pay any damages awarded by a court of competent jurisdiction against Customer (or agreed to in a settlement by PTV) resulting from the IP Claim, including any awarded costs and awarded reasonable attorneys' fees (collectively, "Damages"). PTV will not be responsible for any settlement (and the associated Damages agreed to in such settlement) that it does not approve in writing prior to such settlement.

6.3. In no event will PTV have any obligations under this Section 6 or any liability for any IP Claim if the IP Claim is caused by, or results from: (i) Customer's combination or use of the Licensed Materials or Services with non-PTV software or services, or any equipment, data or other materials, if such IP Claim would have been avoided absent such combination or use; (ii) modification of the Licensed Materials or Services by anyone other than PTV if such IP Claim

would have been avoided by use of the unmodified Licensed Materials or Services; (iii) Customer's continued allegedly infringing activity after being notified thereof or after being provided modifications that would have avoided the alleged infringement; (iv) Customer's use of the Licensed Materials or Services in a manner not strictly in accordance with the applicable Terms or agreement; (v) PTV's modification of the Licensed Materials or Services in compliance with Customer's specifications or directions; (vi) use of other than PTV's most current release of the Licensed Materials if the IP Claim would have been avoided by use of the most current release, provided Customer is given an opportunity to use such most current release for no additional fee; or (vii) any related breach by Customer of any provision under these Terms or any underlying agreement hereunder.

6.4. THIS SECTION 6 STATES PTV'S ENTIRE LIABILITY AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR INFRINGEMENT OR ALLEGED INFRINGEMENT OF A THIRD PARTY'S INTELLECTUAL PROPERTY RIGHTS.

§ 7 Limited Warranty/Disclaimer/Limitation of Liability.

7.1. PTV warrants that at the time of delivery of the Licensed Materials to Customer they will materially conform to PTV's applicable Documentation. This limited warranty shall expire upon one (1) year after delivery of the Licensed Materials to Customer. The Licensed Materials and each deliverable under the Services (a "Deliverable") shall be deemed accepted after a period of fourteen (14) days following delivery of the Licensed Materials or respective Deliverable (which shall be defined as "Acceptance"). As Customer's exclusive remedy, PTV will use its commercially reasonable best efforts to either repair or replace any Deliverable or Licensed Materials found by PTV to have been materially nonconforming at the time of delivery, if Customer, promptly (however not later than ten (10) days after Customer's discovery of the non-conformity) sets forth in writing to PTV information describing in reasonable detail the alleged defect in the Deliverable or Licensed Materials, and such allegedly non-conforming Deliverable is returned and received by PTV within the above-mentioned warranty period. No employee or sales representative of PTV shall have any authority whatsoever to establish, expand or otherwise modify PTV's warranty herein. This limited warranty does not cover normal maintenance, nor misuse, abuse, unauthorized repair or alteration, lack of proper maintenance or damage caused by natural causes such as fire, storm, or flood. PTV shall not be liable for transportation, labor or other charges for adjustments, repairs, replacements of parts, installation, or other work which may be done upon or in connection with the Licensed Materials or the EULA. This warranty shall not be deemed to have failed of its essential purpose so long as PTV is willing and able to repair, replace or refund the purchase price on any defective Licensed Materials or Deliverable in the manner specified. No allowance will be made for repairs made by Customer. Except as herein provided, PTV shall not be liable to Customer in any manner with respect to the Licensed Materials or Services:

7.2. THE FOREGOING LIMITED WARRANTIES ARE THE ONLY WARRANTIES MADE BY PTV WITH RESPECT TO THE LICENSED MATERIALS AND THE SERVICES, EXCEPT THAT PTV AGREES TO PASS THROUGH ANY WARRANTIES EXTENDED FOR THIRD-PARTY PRODUCTS INCORPORATED INTO THE LICENSED MATERIALS OR SERVICES, IF ANY. PTV MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTY WITH RESPECT TO THE LICENSED MATERIALS OR SERVICES, EXPRESS OR IMPLIED, AND PTV DISCLAIMS ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND SYSTEMS INTEGRATION. NO WARRANTY IS MADE REGARDING THE RESULTS OBTAINED BY THE USE OF THE LICENSED MATERIALS OR SERVICES, THAT ALL ERRORS IN THE LICENSED MATERIALS WILL BE CORRECTED, OR THAT THE LICENSED MATERIALS OR SERVICES FUNCTIONALITY WILL MEET CUSTOMER'S REQUIREMENTS. PTV SHALL HAVE NO LIABILITY WITH RESPECT TO ITS OBLIGATIONS UNDER THESE TERMS FOR CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR INCIDENTAL DAMAGES EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE STATED EXPRESS WARRANTY IS IN LIEU OF ALL LIABILITIES OR OBLIGATIONS OF PTV FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE DELIVERY, USE, OR PERFORMANCE OF THE LICENSED MATERIALS OR SOFTWARE. NO ACTION OR PROCEEDINGS UNDER THESE TERMS, REGARDLESS OF FORM, MAY BE COMMENCED BY CUSTOMER MORE THAN TWO (2) YEARS AFTER THE CAUSE OF ACTION ACCRUES.

7.3 CUSTOMER ASSUMES ALL RESPONSIBILITIES AND OBLIGATIONS WITH RESPECT TO ANY DECISIONS MADE OR ADVICE GIVEN AS A RESULT OF THE USE OF THE LICENSED MATERIALS OR SERVICES, AND FOR THE SELECTION OF THE LICENSED MATERIALS OR SERVICES TO ACHIEVE CUSTOMER'S INTENDED RESULTS. CUSTOMER AGREES THAT PTV'S TOTAL LIABILITY IN CONNECTION WITH THE LICENSED MATERIALS OR SERVICES WHETHER ARISING IN CONTRACT, NEGLIGENCE, INDEMNITY, STRICT LIABILITY IN TORT OR WARRANTY, OR ANY OTHER LEGAL THEORY SHALL NOT EXCEED THE AMOUNT PAID BY CUSTOMER TO PTV FOR THE NON-CONFORMING LICENSED MATERIALS OR SERVICES. CUSTOMER AGREES TO ASSUME THE RISK FOR: (A) ALL LIABILITIES DISCLAIMED BY PTV CONTAINED HEREIN AND (B) ALL ALLEGED DAMAGES IN EXCESS OF THE AMOUNT OF THE REMEDY PROVIDED HEREUNDER. THE ESSENTIAL PURPOSE OF THE LIMITED REMEDY PROVIDED CUSTOMER HEREUNDER IS TO ALLOCATE THE RISKS AS PROVIDED ABOVE.

IV. General Provisions

§ 8 Confidentiality, Non-Solicitation

8.1. All Confidential Information (as defined below in Section 8.3) of both Parties is and shall remain the sole and exclusive property of the disclosing party and is to be treated by the receiving party as absolutely secret and confidential. Both Parties covenant and warrant that, without limitation as to time, they shall keep in confidence, maintaining proper security therefore, and shall not (i) use or allow to be used for their own benefit or for any purposes other than the performance of this Agreement, or (ii) disclose or reveal or allow to be disclosed or revealed to any person other than either party any Confidential Information of the disclosing party. Without limiting the foregoing, (i) neither Party shall negotiate with or offer or agree to sell, lease or otherwise transfer to any person or entity any Confidential Information of the disclosing party or any system, data, report, study, program or other item which incorporates or utilizes such Confidential Information, and (ii) either party's name, logo, insignia, photographs or any other publicity pertaining to this Agreement, including but not limited to the existence of these Terms, shall not be used in any magazine, trade paper, newspaper or other medium, or otherwise disclosed to any person, without the prior written consent of both Parties. Neither Party shall disclose the subject matter, existence or terms and conditions of these Terms or the granting of the license hereunder, except as may be required by law or government regulations or pursuant to a court order or in any legal proceeding, or as may be necessary to assert rights under these Terms, or as may be authorized in writing by both Parties.

8.2 As used herein, the term "Confidential Information" means any confidential or proprietary information of the disclosing party, including but not limited to designs, drawings, plans, formulae, instructions, processes, programs, systems, theories, specifications, techniques, tapes, disks, disk racks, models, data, flow charts, documentation, processes, procedures, know-how, new product or technology information, prototypes, software (whether in object code or source code), manufacturing, development, or marketing techniques, development or marketing timetables, business strategies and development plans, supplier information, personnel information, PTV's information, pricing policies, financial information and any other information of a similar nature, whether or not reduced to writing or other tangible form, and any other trade secret or non-public business information.

8.3. PTV and Customer each agree that, for so long as PTV is rendering Services for Customer and for one (1) year thereafter, neither Party nor its officers, directors, employees, subsidiaries, affiliates or agencies (or any third party on its behalf) shall, without the express prior written consent of the other Party, directly or indirectly employ, solicit the employment of, or (independent of the companies' relationship with one another) engage or seek to engage as a consultant or independent contractor the services of any of the other's officers, directors, employees, agents or subcontractors.

§ 9 Dispute Resolution

9.1 Except as provided in Section 9.3 below (Litigation Rights), in the event the Parties are unable to resolve any material dispute regarding any matter related to these Terms or the performance hereunder,

the Parties shall attempt to resolve such matter by sending a written notice to the other, and each Party shall cause its chief executive officer or other delegate with decision-making authority to communicate regarding the substantive (rather than procedural) matters in dispute, or meet, with the other Party in order to discuss and attempt in good faith to reach agreement on the matter(s) in question. If the Parties, within fourteen (14) days of their initial meeting or substantive (rather than procedural) communication, or after such other longer period as the Parties may agree upon in writing, are unable to reach agreement on such matter(s) to the reasonable satisfaction of both Parties, either party may request in writing that the Parties initiate non-binding mediation hereunder (a "Mediation Request"). The Party receiving the Mediation Request shall have twenty (20) days from the date on which the Mediation Request is received to deliver to the other Party a written response indicating whether it accepts or declines the Mediation Request; provided that failure to respond to a timely Mediation Request within such 20-day period shall be deemed to be a refusal of the Mediation Request. Upon acceptance of a Mediation Request, the Parties shall promptly commence the mediation proceeding in accordance with this Section 9.1. In connection with any mediation hereunder, the mediator shall be jointly appointed by the Parties and the mediation shall be conducted by JAMS in the city of Arlington, Virginia, USA, unless otherwise agreed by the Parties. No Party shall be obligated to attend mediation proceedings for more than two (2) days. The mediator shall deliver his or her non-binding settlement proposal to the Parties within fifteen (15) days of his or her appointment. For the avoidance of doubt both Parties expressly acknowledge that it is in the sole discretion of either Party to accept or to decline a mediator's settlement proposal. The costs and fees of the mediation shall be shared equally by the Parties. All mediation pursuant to this Section 9.1 shall be treated as settlement and compromise negotiations.

9.2 If the Parties, within thirty (30) days of their initial meeting or substantive (rather than procedural) communication, or after such other longer period as the Parties may agree upon in writing, are unable to reach agreement, and either (a) a Mediation Request has not been timely delivered in accordance with Section 9.1 (b) a Mediation Request has been delivered in accordance with Section 9.14, but the Party receiving such Mediation Request has not accepted such Mediation Request, or (c) a Mediation Request has been delivered and accepted, but the Parties have been unable to resolve the dispute within ten (10) days of the rendering of the mediator's non-binding settlement proposal, then either Party may proceed with litigation in accordance with the procedures established in Sections 9.3 and 9.4 below.

9.3 Either Party may, without waiving any remedy under this Agreement, seek temporary or permanent injunctive relief to protect its Confidential Information, non-solicitation, and intellectual property rights, regardless of the mediation requirements. THE PARTIES HERETO ACKNOWLEDGE THAT THE RIGHT TO TRIAL BY JURY IS A CONSTITUTIONAL RIGHT, BUT THAT THIS RIGHT MAY BE WAIVED. THE PARTIES EACH HEREBY KNOWINGLY, VOLUNTARILY AND WITHOUT COERCION, WAIVE ALL RIGHTS TO A TRIAL BY JURY OF ALL DISPUTES ARISING OUT OF OR IN RELATION TO THESE TERMS, OR ANY OTHER AGREEMENT BETWEEN THE PARTIES.

9.4 These Terms shall be governed by, construed in accordance with, and subject to, the laws of the Commonwealth of Virginia, without regard to its conflict of laws principles. In the event of a dispute or claim arising under these Terms that is not otherwise resolved, the Parties expressly agree to the sole, exclusive and personal jurisdiction and venue of the federal or state courts located in Arlington County, Virginia, USA. The prevailing party in any such dispute and/or proceeding shall be entitled to recover its costs and expenses incurred (including reasonable attorneys' fees and expenses) in any such dispute or proceeding. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to these Terms.

§ 10 Notices

Simple electronic form (email or fax) shall be sufficient to satisfy any requirement for written form stipulated in these Terms; however, this shall not apply to any notice of termination, which shall require delivery of an original document signed by the respective party, and sent by certified mail, return receipt requested.

§ 11 Assignment; Amendment; Waiver

Customer may not assign these Terms or any EULA, in whole or in part, or any claims against PTV to any third parties, unless PTV provides prior written consent, and any attempted transfer, assignment or delegation without such consent will be void and without effect. Any modifications or amendments to these Terms shall only be valid and enforceable if made in writing and signed by duly authorized representatives of both Parties. This provision shall also apply to any waiver of any contractual obligation hereunder.

EXHIBIT - E

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of _____ ("Contractor"), hereby agrees that the Contractor will hold County-provided information, documents, data, images, records and the like confidential and secure and protect them against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers and property as well as information that the County shares with the Contractor for testing, support, conversion or other services provided under Arlington County Sole Source Agreement No. 20-838 (the "Project" or "Main Agreement") or that may be accessed through other County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

In addition to the DATA SECURITY obligations set in the County Agreement, the Contractor agrees that it will maintain the privacy and security of County Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual, including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or anything that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of County information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its Work under the Project. The Contractor acknowledges that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its Work on the Project. The Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved sub-contractors is appropriate and tightly controlled and that such person/s also maintain the security and privacy of County Information and the integrity of County-networked resources.

Contractor agrees to take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes.

Any device or media on which County Information is stored, even temporarily, will have strict security and access control. Any County Information that is accessible will not leave Contractor's Work site or the County's physical facility, if the Contractor is Working onsite, without written authorization of the County Project Officer. If remote access or other media storage is authorized, the Contractor is responsible for the security of such storage device or paper files.

Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network, are secure and free of all computer viruses, or running the latest version of an industry-standard virus protection program. The Contractor will ensure that all passwords used by its employees or sub-contractors are robust, protected and not shared. The Contractor will not download any County Information except as agreed to by the parties and then only onto a County-approved device. The Contractor understands that downloading onto a personally owned device or service, such as personal e-mail, Dropbox, etc., is prohibited.

Contractor agrees that it will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. The Contractor will fully cooperate with the County to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees to promptly notify others of a suspected or actual breach if requested.

The Contractor agrees that all duties and obligations enumerated in this Agreement also extend to its employees, agents or sub-contractors who are given access to County information. Breach of any of the above conditions by Contractor's employees, agents or sub-contractors shall be treated as a breach by the Contractor. The Contractor agrees that it shall take all reasonable measures to ensure that its employees, agents and sub-contractors are aware of and abide by the terms and conditions of this agreement and related data security provisions in the Main Agreement.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the Contractor has the highest level of administrative safeguards, disaster recovery and best practices in place to ensure confidentiality, protection, privacy and security of County information and County-netWorked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *NonDisclosure and Data Security Agreement* conflicts with the Main Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

At the conclusion of the Project, the Contractor agrees to return all County Information to the County Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the Main Agreement.

Authorized Signature: _____

Printed Name and Title: _____

Date: _____

EXHIBIT - F

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(INDIVIDUAL)

I, the undersigned, agree that I will hold County-provided information, documents, data, images, records and the like confidential and secure and protect it against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers, and property as well as information that the County shares with my employer or prime contractor for testing, support, conversion or the provision of other services under Arlington County Sole Source Agreement No. 20-838 (the "Project" or "Main Agreement") or which may be accessed through County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

I agree that I will maintain the privacy and security of County Information and will not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized to do so by the County Project Officer. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, or that otherwise affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

I agree that I will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly authorized and associated with my designated duties on the Project. I understand and agree that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal law/s, subjecting me and/or my employer to civil and/or criminal penalties.

I also agree that I will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person for any purpose of the Information obtained directly, or indirectly, as a result of my Work on the Project. I agree to view, retrieve or access County Information only to the extent concomitant with my assigned duties on the Project and only in accordance with the County's and my employer's access and security policies or protocols.

I agree that I will take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted as appropriate; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. I will also ensure that any device or media on which County Information is stored, even temporarily, will have strict security and access control and that I will not remove, facilitate the removal of or cause any Information to be removed from my employer's Worksite or the County's physical facility without written authorization of the County Project Officer. If so authorized, I understand that I am responsible for the

security of the electronic equipment or paper files on which the Information is stored and agree to promptly return such Information upon request.

I will not use any devices, laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices ("Device") during my Work on the Project without pre-approval. I will ensure that any Device connected to the County network is free of all computer viruses or running the latest version of an industry-standard virus protection program. I will also ensure that my password, if any, is robust, protected and not shared. I will not download any County Information except as authorized by the County Project Officer and then only onto a County-approved Device. I understand that downloading onto a personally-owned Device or service, such as personal e-mail, Dropbox etc., is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. I will fully cooperate with the County to help regain possession of any County Information and to prevent its further disclosure, use or dissemination.

It is the intent of this Non-Disclosure and Data Security Agreement to ensure that the highest level of administrative safeguards and best practices are in place to ensure confidentiality, protection, privacy and security of County Information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *Nondisclosure and Data Security Agreement* conflicts with the underlying Main Agreement or any local, state or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

Upon completion or termination of my Work on the Project, I agree to return all County Information to the County Project Officer. I understand that this agreement remains in full force and effect throughout my Work on the Project and shall survive my reassignment from the Project, termination of the above referenced Project or my departure from my current employer.

Signed: _____

Printed Name: _____

Date: _____

Witnessed:

Contractor's Project Manager: _____

Printed Name: _____

Date: _____

TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT

Entity Information

Entity Name: PTV America, Inc. Entity ID: 08380511
Entity Type: Stock Corporation Entity Status: **Active**
Formation Date: 11/07/2018 Reason for Status: Active and In Good Standing
VA Qualification Date: 11/07/2018 Status Date: 11/07/2018
Industry Code: 0 - General Period of Duration: Perpetual
Jurisdiction: VA Annual Report Due Date: N/A
Registration Fee Due Date: Not Required Charter Fee: \$50.00

Registered Agent Information

RA Type: Individual Locality: ARLINGTON
RA Qualification: Officer of the Corporation
Name: LINDSAY BERGSTROM Registered Office Address: 1530 WILSON BLVD., SUITE 510,
ARLINGTON, VA, 22209 - 0000,
USA

Principal Office Address

Address: 1530 Wilson Blvd Ste 510,
Arlington, VA, 22209 - 2418, USA