

Final
Approved by WPD
legal counsel and
GPSI

GPS System License and Service Agreement

This GPS System Service Agreement ("Agreement") is made as of March 1, 2015 (the "Effective Date") by and between GPS Industries, LLC a Delaware limited liability company with offices at 1074 North Orange Avenue, Sarasota, Florida, 34236 (including its assigns, "GPSI") and Wheaton Park District, Illinois, with offices at 102 East Wesley Street, Wheaton, IL 60187 (the "Customer"). Customer and GPSI are sometimes referred to hereinafter individually as a "Party" and collectively as "Parties."

WHEREAS, Customer owns and/operates the following 27 hole golf course(s) (the "Golf Course"): Arrowhead Golf Course located at 26W151 Butterfield Road, Wheaton, IL 60187-7937 utilizing 103 golf carts (the "Golf Carts") and Customer owns 103 Pro Star GPS units purchased through GPSI's predecessor, Pro Link (the "System").

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by GPSI and Customer, the Parties agree as follows:

1. **Term.** The term of this Agreement shall commence on the Effective Date and run for a term of 35 months from the Effective Date.
2. **Payments.** For the Term of this Agreement, Customer shall pay a monthly maintenance, service and support fee in the amount of Nine Hundred Seventeen dollars and 73/100 U.S. Dollars (US\$917.73) per month. All payments made under this Agreement shall be net to GPSI.
3. **Taxes.** Customer is exempt from all state sales tax. The Parties shall cooperate in securing any exemptions from taxation of any kind for which this transaction qualifies. Any taxes applicable and not exempted shall be the responsibility of Customer.
4. **Software License.** For the Term, GPSI grants Customer a nontransferable, non-exclusive license to use the software only in conjunction with the System and only as expressly authorized by this Agreement. "System Software" means standard system software provided to Customer. Customer shall, (i) except in the event that release is required by the Illinois or United States Freedom of Information Act, subpoena or other court order, hold System Software in confidence and not disclose it to anyone other than its employees and consultants who require disclosure in connection with Customer's use of the System and who are subject to confidentiality obligations in substance at least as strict as these, (ii) not print, copy, modify, translate, alter, reverse compile, decompile or reverse engineer System Software, (iii) not remove any GPSI copyright, trademark or other proprietary notice from System Software and shall reproduce all such notices on copies made by Customer, and (iv) not transfer System Software or assign any license or rights regarding the System Software. Customer acknowledges that GPSI does not sell its software.

5. **Force Majeure.** GPSI shall not be liable for any interruption in service or disruption of performance of the System resulting from any cause beyond GPSI's reasonable control or caused by acts of God, acts of Customer, acts of military authorities, fires, strikes, floods, epidemics, war or riot.

6. **Maintenance Service.** GPSI shall provide maintenance service based on the Service Terms and Conditions, set forth in Exhibit A, for a period beginning with the Effective Date and ending with the conclusion of the Term. To facilitate service, Customer agrees to provide (a) Access to all areas of the site where equipment is to be installed; (b) dedicated unrestricted broadband Internet connection for the duration of this Agreement for System Installation, monitoring and maintenance service; and (c) battery power to the Golf Car-mounted units at all times, and Customer agrees to allow power to be drawn from the Golf Course irrigation system (or other power sources) to supply radio repeater stations as needed. Customer shall designate one employee to act as the liaison between GPSI and Customer ("Customer Rep"). Customer Rep is responsible for facilitating all Customer obligations as required under this Agreement.

7. **Customer Responsibilities.** Customer hereby agrees to the following responsibilities as a part of this Agreement:

7.1. Customer agrees to store safely and properly secure the System indoors in a reasonably safe area protected from the weather when not in use. At all times, Customer shall use and operate the System in a reasonable manner, in compliance with applicable laws and in compliance of any maintenance or operating instructions provided by GPSI. Customer acknowledges and agrees that it will not allow any repairs to the System or the replacement of System parts to be done by any person except GPSI or technicians authorized by GPSI. Customer shall not make any additions, subtractions or alterations affecting the System without the written consent of GPSI.

7.2. Customer shall not install software unauthorized by GPSI on the System.

7.3. Customer assumes responsibility for all risk of loss to the System and all of its components from the time any of the components arrive at the Customer's premises.

8. **General**

8.1. **Assignment.** Customer acknowledges that GPSI may assign to a successor all or any part of its right, title and interest in this Agreement, and hereby consents to such assignments provided such assignee assumes all obligations of GPSI under this Agreement. In case of such assignment, Customer agrees to continue to perform all of its obligations under this Agreement.

8.2. Events of Default and Remedies.

(a) In the event that Customer violates any provision of this Agreement and such violation continues for a period of at least twenty (20) days after notice in writing of such default from GPSI, Customer shall be deemed to be in default and GPSI may pursue any and all remedies it may have at law or in equity, or any combination of the foregoing.

(b) In the event that GPSI violates any provision of this Agreement and such violation continues for a period of at least twenty (20) days after notice in writing of such default from Customer, GPSI shall be deemed to be in default and Customer may pursue any and all remedies it may have at law or in equity or any combination of the foregoing.

8.3. Notice. All notices required, permitted or given in accordance with the provisions of this Agreement shall be in writing, and either hand-delivered or delivered by recognized overnight courier to the offices listed in the first paragraph of this Agreement or such other address as either party may designate by notice as specified in this section. Notice shall be effective upon receipt.

8.4. WARRANTIES CONTAINED HEREIN ARE IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THOSE GOVERNING MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE LIMITED WARRANTY PROVISIONS SHALL BE GPSI'S SOLE LIABILITY WITH REGARD TO GPSI SYSTEM. GPSI SHALL, IN NO EVENT, BE LIABLE FOR DAMAGES, FOR LOSS OF PROFIT, GOODWILL, OR OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGE SUFFERED BY CUSTOMER OR ITS CUSTOMERS AS A RESULT OF THE USE OF THE SYSTEM SERVICED UNDER THIS AGREEMENT, EVEN IF DAMAGES COULD HAVE BEEN FORESEEN AND WHETHER OR NOT GPSI HAS BEEN APPRISED BY CUSTOMER OR ITS CUSTOMERS FOR THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER'S EXCLUSIVE REMEDY UNDER THE WARRANTY PROVISIONS SHALL BE LIMITED TO, AT GPSI'S OPTION, REPAIR, PERFORMANCE, ADJUSTMENT AND/OR REPLACEMENT OF THE SYSTEM, OR THE SERVICES PROVIDED HEREUNDER, OR ANY COMBINATION THEREOF. THESE WARRANTIES ARE MADE ONLY TO CUSTOMER AND ARE NOT TRANSFERABLE TO ANY OTHER PERSON OR ENTITY. ALL WARRANTY CLAIMS MUST BE MADE BY AN AUTHORIZED REPRESENTATIVE OR AGENT OF CUSTOMER.

8.5. General. This Agreement, together with the exhibits and schedules referred to in it, constitutes the entire agreement between the parties pertaining to the within subject matter and supersedes any prior understandings or oral or written. This Agreement may not be varied, modified, or amended except in writing signed by the parties. Waiver by either party of any breach or violation or default of any provision of this Agreement will not operate as a waiver of such provision or of any subsequent breach or violation or any default. The failure or refusal of any party to exercise any right or remedy shall not be deemed to be a waiver or abandonment of any right or remedy. If any term of this Agreement is for any reason invalid or unenforceable, the rest of the Agreement remains fully valid and enforceable. The headings in the Agreement are for convenience of reference only and do not constitute a part of it. The headings do not affect its interpretation. This Agreement shall be governed by and construed in accordance with the procedural and substantive laws of the State of Illinois. This Agreement may be executed by facsimile and/or electronic signature. The parties agree that this Agreement was fully negotiated

by the parties; therefore, no provision of this Agreement shall be interpreted against any party because such party or its legal representative drafted such provision. All work performed by GPSI in connection with the services to be performed under this Agreement shall be performed by GPSI as an independent contractor and not as the agent of Customer. GPSI may subcontract any or all of the work to be performed under this Agreement but shall retain full responsibility for the work so subcontracted. Customer may terminate this Agreement upon not less than thirty days' written notice to GPSI for Customer's convenience and without cause. In such event, GPSI may disable the software and retrieve any hardware owned by it under the terms of this Agreement. At all times before and after termination of this Agreement for any reason, Customer shall remain the sole owner of the System.

8.6. **Parts Limitation.** Customer acknowledges that due to the age of the System, GPSI's ability to obtain certain parts may be limited especially with respect to roof mounting components; accordingly, the inability by GPSI to obtain components on commercially reasonable terms shall not be considered either a breach or default of this Agreement.

8.7. IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date.

GPS INDUSTRIES, LLC

**WHEATON PARK DISTRICT, DuPage County,
Illinois**

L. Gerard Johnson

L. Gerard Johnson (Mar 2, 2015)

Authorized Signatory

L. Gerard Johnson

Name

VP of Operations

Title

Mar 2, 2015

Date

[Signature]

Authorized Signatory

Michael J. Baran

Name

Executive Director

Title

2/18/15

Date

EXHIBIT A**Service Plan Terms and Conditions****1. Scope of Service**

1.1. **Defective Components.** GPSI shall provide maintenance service as provided for in paragraphs 2.3 and 2.4 of this Exhibit A, at its expense, to repair, modify or replace System components, as necessary that are defective in workmanship. GPSI does not warrant that the operation of the System shall be uninterrupted or completely error-free.

1.2. **Exclusions.** Service shall not include: (1) maintenance, repair or replacement of parts damaged or failing to operate due to acts of God, including without limit, lightning, fire, hail, and flood; acts of government, including war; catastrophes, accident, neglect, misuse, failure of satellites, failure of electrical power, fault or negligence of Customer, causes external to the System; (2) service and repair of accessories, attachments, or any other devices not specifically listed herein; (3) changes, modifications or alterations in or to the System required due to new construction or changes to the golf course or facilities; (4) graphical changes after acceptance of the System, (5) software damage caused by unauthorized use.

2. Customer Responsibilities

2.1. **Problem Notification.** Customer agrees to promptly notify GPSI Customer Support in the event of any System or component failure and provide diagnostic assistance to support GPSI's maintenance service efforts.

2.2. **To Contact Customer Support.** GPSI shall provide Customer with reasonable access to GPSI Customer Support during business hours. GPSI shall maintain, during the Term, Customer Support including user support, troubleshooting, and diagnostic assistance as a material component of the monthly maintenance, service and support fee. GPSI Customer Support is Customer's point of contact for reporting system problems or requesting GPSI service.

- a. For all routine requests and status inquiries, contact Customer Support via email to support@gpsindustries.com.
- b. To report emergency or critical system issues contact Customer Support by calling GPSI's toll free Customer Support line at (888) 5752901.

2.3. **Component Replacement.** Customer agrees to perform the task of changing out replacement components provided by GPSI. Customer will be billed for repair or replacement of returned components that have been damaged due to causes not covered by the Service Plan as described in paragraph 1.2.

2.4. RMA request for defective components. A Return Materials Authorization number (RMA) is required for the return of any defective component. To obtain an RMA, Customer must contact the Customer Support center at 888-575-2901. If Customer Support determines that the component must be returned for repair, Customer Support will issue an RMA. Customer is then responsible for properly following procedures for returning components as instructed by Customer Support. Any request for special handling such as expedited repair, overnight return delivery, or non-business day delivery may be subject to additional charges billable to Customer. Customer agrees to pay for shipment of components returned to GPSI. GPSI agrees to pay for return shipment to Customer.

3. Definition of Service Plan Elements

3.1. Remote Diagnostics. GPSI accesses the System via the Internet to perform System diagnostics, remote health monitoring or specific troubleshooting procedures to detect, identify or correct failures.

3.2. Software Upgrades and Enhancements. GPSI shall provide software maintenance for the System Software. Software maintenance provides for bug fixes, patches, corrections, upgrades and enhancements as available. Software upgrades do not include new software features or hardware product offerings that are sold separately.

3.3. On-site Service. If a problem cannot be resolved through telephone support or by shipping a replacement component, GPSI will dispatch a technician to Customer's site to address the problem. On-site services including labor, materials, and reasonable travel expenses are chargeable for site visits that result from out-of-scope problems.

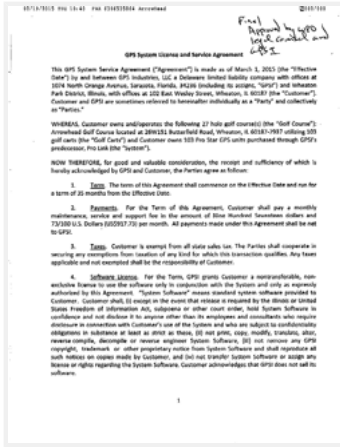
3.4. Fleet Change Out. A golf car fleet replacement may require on-site assistance by a GPSI representative or additional cart mounting hardware or both. On-site services for fleet replacements are chargeable according to the rates listed in Exhibit B. GPSI REQUIRES 90 DAYS PRIOR NOTICE FOR ANY FLEET REPLACEMENT SERVICES.

EXHIBIT B**Pricing of Additional Services**

Services not covered under Service Terms and Conditions (Exhibit A) or that may be requested from time to time are available according to the prices and terms below. All prices and terms for additional services are subject to change.

<u>Description</u>	<u>Prices</u>
Graphical Changes	US\$65 / half hour
Mapping Changes	US\$60 / half hour plus travel and expenses at reasonable cost
On-site service for items not covered under Service (due to external causes or at customer's requests for additional services)	US\$400 per half day on site plus \$40 per hour travel time to and from site plus travel and expenses at reasonable cost; plus any applicable material charges.
Repair of GPS unit for damage not covered under Service	\$395 per unit plus shipping back to Customer
Fleet Replacement Like-to-Like car changeover(i.e. Yamaha electric to Yamaha electric which requires no additional or replacement mounting hardware), Customer may chose alternatives a or b (90 days advance notice required):	
a- By Customer (2-3 people) + 1 GPSI employee	US\$20/unit plus travel and expenses at reasonable cost
b- By GPSI (2-3 people) on-site	US\$42/unit plus travel and expenses at reasonable cost
Fleet Replacement different type cars; (90 days advance notice required):	Quoted on case by case basis

Payment Terms for Additional Services: For orders up to US\$1,500, GPSI will provide services upon receipt and confirmation of the order. Payment will be due upon delivery of services. For orders of US\$1,500 or more, GPSI requires a purchase order number or an advance deposit payment equal to 50% of the order price with the final payment due upon delivery of services. GPSI at its sole discretion reserves the right to hold orders for accounts that have outstanding payables beyond terms. Scheduling of services depends on material lead-times and the backlog of service orders at the time of order confirmation.








the Arrowhead License and Service Agreement

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