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MEMORANDUM OF UNDERSTANDING BETWEEN THE VIRGIN ISLANDS DEPARTMENT OF HEALTH & FREDERIKSTED HEALTH CARE, INC. THROUGH THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is made this 25 day of November 2020, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Health and Frederiksted Health Care, Inc., each a “Party” or collectively “Parties,” through the Department of Property and Procurement.

WITNESSETH:

Whereas, the Virgin Islands Department of Health is responsible for ensuring health care, during the COVID-19 Pandemic, to the residents of the Territory pursuant to Title 3, Section 23 and Title 19, Section 1; and

Whereas, the Frederiksted Health Care, Inc. (FHC) is responsible for high quality primary clinical care, focused on providing one-stop services to include medical, dental behavioral health and lab services. In response to the COVID 19 pandemic, FHC is offering COVID 19 testing to Asymptomatic persons particularly those working in Public Service entities.

Whereas, the entities have a common interest in ensuring quality and efficient laboratory testing during the COVID-19 Pandemic; and

Whereas, the entities desire to combine efforts in ensuring that quality and efficient laboratory testing is available during the COVID-19 Pandemic, by entering into this MOU.

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

1. TERM AND EFFECTIVE DATE

This MOU shall be effective upon the date of execution of this MOU by the Commissioner of the Department of Property and Procurement and shall terminate twelve (12) months thereafter. The Government in its sole discretion, shall have the option to renew this MOU for a period of one additional year subject to the same terms noted herein, by providing Frederiksted Health Care., Inc. with 60 days written notice of the Government’s election to renew.



2. COSTS

There shall be no exchange of funds between the Parties for the performance of tasks under this MOU. Each Party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

3. RESPONSIBILITIES/ TASKS

3.1 Department of Health shall be responsible for:

- (a) Providing Abbott ID NOW instrument, which is a rapid molecular in vitro diagnostic test
- (b) Providing weekly Abbott ID NOW test supplies and swabs (up to 300 per week with a minimum guarantee of 100 test kits)
- (c) DOH has the responsibility for Contact Tracing
- (d) Referring Asymptomatic patients for testing

3.2 Frederiksted Health Care Inc. shall be responsible for:

- (a) Collect all applicable patient information from patients
- (b) Conduct Swabs a minimum of 4 hours per day and up to 7 hours per day with 2 staffed employees (dependent upon volume).
- (c) Conduct up to 100 test per instrument per week for persons
- (d) Conduct control testing as determined by manufacturer
- (e) Will perform test under Centers for Medicare & Medicaid Services (CMS) federal regulations
- (f) Electronically report results to the DOH through Health Level Seven (HL7) Messaging through Inductive Health
- (g) Shall have the right to request insurance information from and bill any Insured patients. Patients cannot be charged a fee, or co-pay.
- (h) Shall have the right to bill any Insured or non-insured Frederiksted Health Care Inc. patients. Frederiksted Health Care Inc. patients shall be defined as existing patients or patients directly sourced by Frederiksted Health Care Inc. for COVID-19 Testing.
- (i) Shall have the ability to offer COVID-19 antibodies testing to all patients at their discretion and bill all patients which elect to have antibodies testing conducted.
- (j) Offering testing of Asymptomatic patients

3.3 Other Provisions

- (a) MOU is intended for Emergency COVID-19 testing
- (b) All tests are being performed under and Emergency Use Authorization
- (c) Accuracy of test is based on manufacturer
- (d) Either party can terminate agreement at their discretion



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- (e) Supplies are dependent upon availability; but a total of 1200 tests per week are expected to be received to DOH until December 31, 2020.
- (f) Weekly allocations will be determined based on usage.
- (g) Frederiksted Health Care, Inc. may use instruments for additional testing provided DOH persons/groups are prioritized
- (h) Frederiksted Health Care Inc may offer additional COVID-19 testing to all clients
- (i) Either party may terminate MOU. One-week notification is requested.
- (j) Disclaimer will be included on each test result detailing emergency use authorization and manufacturer performance
- (k) Neither party accepts liability for the performance of the test conducted according to manufacturer procedure and performance

4. DESIGNATED REPRESENTATIVE

Each Party shall designate a representative to oversee its responsibilities under this MOU.

Department of Health designates:

Dr. Brett R Ellis PhD MSPH PHLD (ABB)
 Director, Territorial Public Health Laboratory
 Charles Harwood Medical Complex
 3500 Estate Richmond
 Christiansted, VI 00820-4370

Frederiksted Health Care Inc. designates:

Masserae Webster, Chief Executive Officer
 516 Strand Street
 Frederiksted, St. Croix, U.S. Virgin Islands 00840
 MWebster@fhc-inc.net

5. LIABILITY OF OTHERS

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

6. ASSIGNMENT

Neither Party shall subcontract or assign any part of the services or responsibilities under this MOU.



7. INDEMNIFICATION

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

8. GOVERNING LAW

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

9. WAIVERS AND AMENDMENTS

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

10. ENTIRE AGREEMENT

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

11. CONDITION PRECEDENT

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

12. TERMINATION

Either party will have the right to terminate this MOU with or without cause on one (1) week, five (5) business days written notice to the other party specifying the date of termination.

13. NON-DISCRIMINATION



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

14. CONFLICT OF INTEREST

Both Parties covenant that it has no interest and will not acquire any interest direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this MOU.

15. NOTICE

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

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

Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner
Department of Health
1303 Hospital Ground – Suite 10
St. Thomas, VI 00802

Masserae Webster, Chief Executive Officer
Frederiksted Health Care Inc.
516 Strand Street
Frederiksted, St. Croix, U.S. Virgin Islands 00840

16. INSURANCE: Frederiksted Health Care, Inc. shall maintain the following insurance coverages during the term of this MOU

- (a) **COMMERCIAL GENERAL LIABILITY:** Commercial general liability insurance, in a form acceptable to the Government, on a “per occurrence” basis with a minimum limit of not less than one million dollars (\$1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars (\$1,000,000.00) for any one



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occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder.

(b) PROFESSIONAL LIABILITY: Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars (\$1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.

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

17. FASCIMILE, ELECTRONIC & DIGITAL SIGNATURES

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

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

WITNESSES

GOVERNMENT OF THE VIRGIN ISLANDS

Justa E. Encarnacion, Commissioner
Department of Health

8/19/2020
Date

Masserae Webster, Chief Executive Officer
Frederiksted Health Care, Inc.

August 3, 2020
Date

Anthony D. Thomas, Commissioner
Department of Property and Procurement

11/25/2020
Date

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

Paul E. McDonald Date 11/24/2020