



OPCMR

**MEMORANDUM OF UNDERSTANDING
BETWEEN
THE VIRGIN ISLANDS DEPARTMENT OF HEALTH
& THE DEPARTMENT OF TOURISM
THROUGH
THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING ('MOU') is made this 9th day of July, 2021, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, the Department of Health (VIDOH) and the Department of Tourism (VIDOT), each a "Party" or collectively the "Parties", through the Department of Property and Procurement.

WITNESSETH:

WHEREAS, On March 13, 2020, the Governor issued the Executive Order and Proclamation Declaring a State of Emergency in response to the COVID-19 - CORONAVIRUS PANDEMIC ("Declaration of a State of Emergency"), and invoked the Virgin Islands Territorial Emergency Management Act, 23 V.I.C. § 1001 - 1016, authorizing the Governor to exercise the powers and duties set forth therein to direct and aid the response to, recovery from, and guidance for the mitigation as well as response to emergencies; and

WHEREAS, the Office of the Governor has instituted consecutive executive orders regarding the ongoing COVID-19 health pandemic, most recently the Twenty-first Supplemental Executive Order and Proclamation Modifying Conditions of the "Safer-at-home" Phase in response to COVID-19 State of Emergency;

WHEREAS, the Government has been coordinating the Territory's response and enforcing protective actions to address "COVID-19", a public health emergency that currently requires the Government to act and provide for the health, safety, and welfare of residents and visitors located in the Virgin Islands; and

WHEREAS, the Virgin Islands Department of Health is responsible for ensuring Healthcare during the COVID-19 pandemic to the residents of the Territory, pursuant to Title 3, Section 23 and Title 19, Section 1 of the Virgin Islands Code; and

WHEREAS, the Virgin Islands Department of Health is responsible for disease surveillance, "investigating determining the epidemiology of those conditions which contribute to diseases, pursuant to Title 19, Section 51 of the Virgin Islands Code; and



OPCMR

WHEREAS, the Virgin Islands Department of Health, is responsible for determining, documenting and storing the vaccination status of travelers to the Territory, with an initial focus on any person that has been vaccinated in the Territory; and

WHEREAS, the Department of Tourism is responsible for marketing the Territory as a premier destination for travelers under its general powers in Title 3, Section 331 (a)(1) of the Virgin Islands Code, for the processing and approval of travelers to the Territory, including Virgin Islands residents and sustaining the economy under its mandate during the pandemic; and

WHEREAS, the Department of Tourism, through Marketplace Excellence, its public relations, communications and crisis management agency, has developed and continues to engineer the technology, processes and human resources, for the ongoing deployment of the U.S. Virgin Islands Travel Screening Portal (USVI TSP), that processes all travelers and residents that travel by air or sea to the Territory; and

WHEREAS, the Parties have to use certain protected health information (PHI) and other privacy information (hereinafter "Data") and agree to respect and abide by all federal, state and local laws pertaining to confidentiality and other standards with regard to all information and records obtained or reviewed in the course of providing services under this Agreement and all federal rules under the Health Insurance Portability and Accountability Act (HIPAA) governing the privacy, security and use of protected health information. Further, the Parties recognize that the provision of services requires the sharing of protected health information and certain other personal information that is protected by the Health Insurance Portability and Accountability Act of 1996, as amended (HIPAA), hereinafter Protected Health Information (PHI), said information or Data to be protected from unauthorized release, and, if required, to otherwise comply with 42 U.S.C. 242m (Public Health Service Act section 308(d) and the Federal Privacy Act, 5 USC §§ 552 and 552 A.

WHEREAS, the Parties have a common interest in ensuring continued provision of and expansion of services during the COVID-19 pandemic and intend to use combined best efforts to ensure the health and safety of travelers and residents to and of the Territory by sharing COVID-19 vaccination data to facilitate travel clearance for travelers to the Territory through DOT's USVI TSP; and

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

1. TERM AND EFFECTIVE DATE

This MOU shall be effective on the date of execution of this MOU by the Commissioner of the Department of Property and Procurement and shall terminate one (1) year thereafter. The

MOU No. G039DOHT21

Initials: LB-



OPCMR

Government in its sole discretion, shall have the option to renew this Contract for a period of one (1) additional year, subject to the same terms noted herein, by providing the parties with sixty (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 and each party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

3. RESPONSIBILITIES/TASKS

3.1 DEPARTMENT OF HEALTH

- a. Use Data solely for COVID-19 public health purposes
- b. Decision-making authority to accept or reject travelers
- c. DOH will gain access to USVI TSP Data for all travelers, including Virgin Islands residents
- d. DOH will gain access to USVI TSP Data for "active travelers", in excess of processing window
- e. Oversight of use of USVI TSP generated records and limited Data points to contact and maintain contact with travelers for about 14 days after traveler is processed through USVI TSP
- f. Responsibility for USVI TSP-specific security layer and integration for all Data
- g. Responsibility to send selected Data and/or facilitate the sending of selected Data from Department of Health to the Department of Tourism for use in the vaccine validation system

3.2 DEPARTMENT OF TOURISM

- a. Use Data for COVID-19 public health purposes
- b. Oversight of Development, Security and Maintenance of the USVI TSP
- c. Decision-making authority to accept or reject travelers
- d. Access to Data for all travelers, including Virgin Islanders
- e. Provide access to DOH to the USVI TSP Data for "active travelers" during processing window
- f. Provide access to DOH to the USVI TSP Data for "active travelers", outside of processing window
- g. Provide access to DOH to limited USVI TSP Data points to maintain contact with travelers, per mandate, during pandemic response
- h. Operate day-time 800 number to receive and respond to queries
- i. Operate evening, weekend, back-up and emergency 800 number to receive and respond to queries
- j. Operate around-the-clock Customer Service Center to respond to emails, calls and web inquiries
- k. Responsibility to extract and utilize extracted or receive selected USVI TSP Data from Department of Health application for use in vaccine validation system



OPCMR

- l. Responsibility to confirm that Marketplace Excellence Corporation has and maintains adequate security to electronically access Department of Health applications and utilize, process and share selected Data pursuant to Contract No: P070DOTT16 and subsequent renewal.

3.3 OTHER PROVISIONS

This MOU provides for the access to, and use of the Data collected by the Department of Tourism from the Department of Health. It also applies to information provided by and collected by DOH. It is understood that the safety, security and integrity of the Data is an ongoing concern for all parties. This MOU seeks to define the use and scope of the Data such that any breaches can be isolated and remediated to the extent practicable.

3.3.1 Pre-MOU Protocol

No access or use of the Portal for vaccine validation

3.3.2 MOU Protocol

- a) Travel screening portal holds Data for 7 days for all passengers
- b) Every 7th day the previous 7th day Data is deleted from the USVI TSP
- c) Before the deletion, USVI TSP Data is uploaded to a secure folder
- d) Once in secure folder, USVI TSP Data is uploaded to an encrypted secure folder
- e) Department of Health will provide Data that has been verified to be current as to vaccinated-person status, and will provide Department of Tourism with access to the information
- f) Department of Tourism will extract and utilize selected USVI TSP Data and application(s) from the Department of Health for vaccination validation
- g) The vaccine validation result will be embedded in the USVI TSP to streamline the process of providing clearance to travel to the Territory for persons vaccinated in the U.S. Virgin Islands

3.3.3 JOINT RESPONSIBILITIES of DOH and DOT

- a. Use selected Data solely for processing of travelers that are arriving in the Territory, including Virgin Islands' residents
- b. Use Data after processing travelers to monitor, track and trace travelers that are in the Territory
- c. Use selected Data to determine the vaccination status of travelers, with initial implementation for persons vaccinated in the U.S. Virgin Islands
- d. Designate specific points of contact and provide written notice in advance of any change, to ensure continuity

MOU No. G039DOHT21

Initials: f B -



OPCMR

- e. Limit individual-identifiable Data solely to Department staff and contractors who are authorized to use Data for the purposes of this MOU
- f. Acknowledge that Federal statutes including 18 U.S.C. Section 1001 (false statements to the Government of the United States) may be implicated if Data is not protected from release
- g. Acknowledge that it is the custodian of PHI and responsible for maintaining appropriate administrative, technical and physical safeguards to prevent unauthorized access to or use of the Data
- h. Maintain appropriate security safeguards and awareness training including signed rules of behavior, strong passwords, approved encryption and auditing measures
- i. Agree not to release the Data, other than to those approved to handle Data, under the Territory's Open records laws; to media; for litigation or similar purpose, unless by Court order

4. DESIGNATED REPRESENTATIVE

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

Department of Health designates:

Dr. Esther M. Ellis
 Territorial Epidemiologist
 Department of Health
 Charles Harwood Complex
 3500 Estate Richmond
 Christiansted, USVI 00820
esther.ellis@doh.vi.gov

Department of Tourism designates:

Alani Henneman-Todman
 Assistant Commissioner - Marketing
 Department of Tourism
 2318 Kronprindsens Gade
 St. Thomas, USVI 00802
ahenneman@usvitourism.vi

5. ASSIGNMENT

The parties shall not subcontract or assign any part of the services under this MOU.

6. GOVERNING LAW

MOU No. G039DOHT21

Initials: EB-



OPCMR

This MOU shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands. This MOU shall also be governed by any U.S. Federal Law, rules and regulations that may apply.

7. 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.

8. ENTIRE AGREEMENT

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

9. 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.

10. TERMINATION

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

Notwithstanding the foregoing, either party may terminate this MOU if the other party intentionally or willfully misappropriates or mishandles the Data or causes an unauthorized use or disclosure of the data covered by this MOU.

11. NON-DISCRIMINATION

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

12. CONFLICT OF INTEREST

MOU No. G039DOHT21

Initials LB-



OPCMR

Both parties covenant that it has no interest and will not require 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.

13. 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:

DEPARTMENT OF PROPERTY AND PROCUREMENT

Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802
anthony.thomas@dpp.vi.gov

DEPARTMENT OF HEALTH

Justa E. Encarnacion
Commissioner
Department of Health
1303 Hospital Ground - Suite 10
St. Thomas, VI 00802
justa.encarnacion@doh.vi.gov

DEPARTMENT OF TOURISM

Joseph B. Boschulte
Commissioner
Department of Tourism
2318 Kronprindsens Gade
St. Thomas, USVI 00802
jboschulte@usvitourism.vi

14. FACSIMILE, ELECTRONIC AND DIGITAL SIGNATURES

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

MOU No. G039DOHT21

Initials JB-



OPCMR

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

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

[Signature]

Anthony D. Thomas
Anthony D. Thomas, Commissioner
Department of Property and Procurement

7/09/2021
Date

Dereese A Dunlop-Harley

Justa Encarnacion
Justa Encarnacion, Commissioner
Department of Health

7/4/2021
Date

[Signature]

J. B.
Joseph B. Boschulte, Commissioner
Department of Tourism

07/02/2021
Date

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

Carel E. McDowell
Assistant Attorney General

7/8/2021
Date