

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 1st day of October, 2018 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of Property and Procurement, on behalf of the Virgin Islands Police Department and the Virgin Islands Department of Justice (hereinafter referred to collectively as "Government") and DNA Labs International Inc., a Florida corporation (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor for the provision of Forensic Serology and DNA Testing Services, which duties are more particularly described in Addendum I (Scope of Work) attached hereto;

WHEREAS, the Contractor was selected in accordance with 31 VIC 239(a)(8) which provides for an exception where competitive bidding is impracticable;

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

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

1. SERVICES

The Contractor will provide the services described in Addendum I (Scope of Work) attached hereto and made a part of this contract.

2. TERM

Upon execution of this Contract by the Governor of the Virgin Islands the Contract shall be effective for a Term beginning from October 1, 2018 to September 30, 2019. The 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 Contractor with sixty (60) days written notice of the Government's election to renew.

3. COMPENSATION

In consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), the Government agrees to pay Contractor a sum not to exceed Three Hundred Seventy-Eight Thousand Dollars and No Cents (\$378,000.00), as more specifically set forth in Addendum II (Compensation) attached hereto and made a part of this contract.

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4. TRAVEL

The compensation for services specified in Paragraph 3 above includes the cost of documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing in advance by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract; however, said travel costs and expenses shall not exceed TEN THOUSAND DOLLARS and No Cents (\$10,000.00).

5. RECORDS

The Contractor, when applicable, will present documented, precise records of time and/or money expended under this Contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to his profession and to consultants doing business in the United States Virgin Islands.

At all times that this Contract is in effect, Contractor shall maintain accreditation by a nationally recognized forensic testing accrediting agency. Such accreditation shall certify that Contractor adheres to the standards established by the International Organization for Standardization and the FBI Quality Assurance Standards.

7. DOCUMENTS, PRINTOUTS, ETC.

- a. All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived here from and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Governor.
- b. All data, test results, and information of any kind and in any medium derived or resulting from the forensic serology and DNA testing and analysis services under this Contract, and any ancillary testing and analysis services performed in connection with and pertaining to the services under this Contract, are the sole and exclusive property of the Government, free and clear of any claim or retention rights by the Contractor. In addition, any compilation, database, case reports, profiles, websites, application software, programs, documents, technical communications, books, records, instructional materials, findings, conclusions, opinions, printouts and memoranda of every description derived from and pertaining to the services under this Contract, but not including Contractor's administrative communications, records, files and working papers relating to this Contract, and all information and data entered into and maintained in the Virgin Islands DNA Profile Database, whether prior to or subsequent to the effective date of this Contract, are

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Page 2

the sole and exclusive property of the Government, free and clear of any claim or retention rights by the Contractor. The provisions of this Section shall survive termination or expiration of this Contract.

- c. "Confidential Information" shall mean all information and data classified as confidential under Virgin Islands and federal statutes and rules and regulations. Contractor agrees that the Confidential Information is to be considered confidential and proprietary to the Government and Contractor shall hold the same in confidence, shall not use the Confidential Information except with the specific prior written authorization of the Government, and shall disclose it only to its officers, directors, or employees with a specific need to know. Contractor will not disclose, publish or otherwise reveal any of the Confidential Information, whether received from the Government, derived by Contractor in the performing the services under this Contract, or obtained by any other means or source, to any other party whatsoever except with the specific prior written authorization of the Government. Contractor shall take all necessary steps to safeguard the Confidential Information in conformity with federal and Virgin Islands statutes and rules and regulation. The provisions of this Section shall not apply to Confidential Information that Contractor is required to disclose by law or by court order. In such event the Contractor shall give the Government at least ten (10) days prior notice of disclosing Confidential Information, which notice shall include the legal authority or court order compelling the disclosure Confidential Information and state the specific Confidential Information that the Contractor is compelled to disclose by law or court order. The Government shall have the right to challenge any demand for the disclosure of Confidential Information made by court order or under the authority of law. The provisions of this Section shall survive termination or expiration of this Contract.

8. LIABILITY OF OTHERS

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

9. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

10. INDEMNIFICATION

Contractor agrees to indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and

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Page 3

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 Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent Contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

12. GOVERNING LAW

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

13. WAIVERS AND AMENDMENTS

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

14. ENTIRE AGREEMENT

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

15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising there from and at its option, the Government may apply such sums in such manner as Government may deem proper to secure itself or satisfy its claim. The Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

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16. CONDITIONS PRECEDENT

This contract shall be subject to availability and appropriation of funds and to the approval of the Governor.

17. TERMINATION

Either party shall have the right to terminate this Contract with or without cause on thirty (30) days written notice to the other party specifying the date of termination. Upon termination of the agreement, any remaining credit balance on the contract will then be refunded by the Contractor to the Government or paid to the Contractor by the Government, whichever case applies.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government, in part, whenever the Government shall deem such termination advisable by providing thirty (30) days written notice to the Contractor. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive payment for services provided to the date termination, including payment for the period of the thirty (30) day notice. Upon partial termination of the agreement, any remaining credit balance on the contract will then be refunded by the Contractor to the Government or paid to the Contractor by the Government, whichever case applies.

19. NON-DISCRIMINATION

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

20. CONFLICT OF INTEREST

- (a) Contractor covenants that it has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
- (b) Contractor further covenants that it is:
 - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature, or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

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- (2) a territorial officer or employee and, as such, has:
- (i) familiarized itself with the provisions of Title 3, Chapter 37 of the Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in section 1108 thereof;
 - (ii) not made, negotiated or influenced this Contract, in its official capacity;
 - (iii) no financial interest in the Contract as that term is defined in section 1101 (1) of said Code chapter.

21. EFFECTIVE DATE

The effective date of this Contract shall be the day of execution of the Contract by the Governor.

22. NOTICE

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

GOVERNMENT

Commissioner
Virgin Islands Police Department
45 Mars Hill
St. Croix, Virgin Islands 00840

Commissioner
Department of Property & Procurement
Sub Base, Building No. 1
St. Thomas, Virgin Islands 00802

Attorney General
Virgin Islands Department of Justice
3438 Kronprindsens Gade
GERS Building, 2nd Floor
St. Thomas, Virgin Islands 00802

CONTRACTOR

DNA Labs International Inc.
Kirsten Charlson
260 SW Natura Avenue, 2nd FL
Deerfield Beach, Florida 33441

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23. LICENSURE

The Contractor covenants that it:

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

24. FALSE CLAIMS

Contractor warrants that he shall not, with respect to this Contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offense under Virgin Islands law.

25. INSURANCE

Contractor shall maintain the following insurance coverages during the term of this Contract

- a) **COMMERCIAL GENERAL LIABILITY:** Commercial general liability insurance, in a form acceptable to the Government, on a “per occurrence” basis with a minimum limit of not less than Three Hundred Seventy-Eight Thousand dollars (\$378,000.00) for anyone per occurrence for death or personal injury and Three Hundred Seventy-Eight Thousand dollars (\$378,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement.
- b) **PROFESSIONAL LIABILITY:** Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than Three Hundred Seventy-Eight Thousand Dollars (\$378,000.00) 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.

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26. OTHER PROVISIONS

Addendums I, II and III attached to this contract are by this reference, incorporated into and made a part of this contract. Specifically, Addenda I (Scope of Work), Addenda II (Compensation) and Addenda III (Offender DNA Profile Program).

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

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

Rita Thomas

Jason K Marsh
Jason Marsh
Acting Police Commissioner
Virgin Islands Police Department

1/17/19
Date

Anthony Thomas

Anthony Thomas
Anthony Thomas
Commissioner Nominee
Department of Property & Procurement

2.1.19
Date

Carol Thomas-Jacobs

Carol Thomas-Jacobs
Carol Thomas-Jacobs, Esq.
Acting Attorney General

1/18/19
Date

CONTRACTOR

DNA Labs International Inc.

Devala Parker

Kirsten Charlson
Kirsten Charlson
President

1/16/19
Date

APPROVED:

Albert Bryan, Jr.

Albert Bryan, Jr.

GOVERNOR OF THE VIRGIN ISLANDS

3/4/19
Date

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE

BY:

Paul E. McDonald
Assistant Attorney General
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2/4/19
Date

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