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CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 28th day of July, 2021, 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 Bureau of Corrections (hereinafter referred to as "Government") and Mattsco Enterprises, Inc. d/b/a Chef's Catering Service (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to develop and manage a food services program for inmates at the John A. Bell Adult Correctional Facility on St. Croix, U.S. Virgin Islands and the Alexander A. Farrelly Justice Complex on St. Thomas, U.S. Virgin Islands, which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the Contractor was selected in accordance with 31 V.I.C. § 239(a)(8); and

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

NOW, THEREFORE, in consideration of the compensation and 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 Services), attached hereto and made a part of this contract.

2. TERM AND EFFECTIVE DATE

The term of this Contract shall be from April 12, 2021, to October 12, 2021. Upon the date of execution by the Commissioner of the Department of Property and Procurement, the Contract shall become effective for the term set out herein. This Contract will not have a renewal option.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor a sum not to exceed One Hundred Twenty Thousand and 00/100 Dollars (\$120,000.00) during the term of the contract in accordance with the provisions set forth in Addendum II (Compensation), attached hereto and made a part of this contract.

Contract No. P106BOCT21

Contractor's Initials: MD



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4. TRAVEL EXPENSES

Inclusive of the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay 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 costs and expenses shall not exceed \$10,000.

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 its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom 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 Government.

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, gross receipt, excise, and social security taxes for Contractor, its servants, agents or independent contractors.



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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, costs, charges and expenses (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.



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15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, the Government shall give the Contractor written notice of the manner in which the Government contends the Contract is not being performed in accordance with the terms hereof and in the event the Contractor has not cured such performance issue within 15 days of Contractor's receipt of such notice, then 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 therefrom, and, at its option, the Government may apply such sums in such manner as the Government may deem proper to secure itself or to satisfy such claims. 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 the 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.

16. CONDITION PRECEDENT

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

17. TERMINATION

Either party will 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.

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 of termination, including payment for the period of the thirty (30) day notice.

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.



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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
 - (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; and
 - (iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

21. 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 email, facsimile, certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

GOVERNMENT

Anthony D. Thomas
Commissioner
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas, VI 00802
Email: anthony.thomas@dpp.vi.gov
Telephone: (340) 774-0828

Wynnie Testamark
Director
Bureau of Corrections
RR 1, Box 9909
Kingshill, VI 00850
Email: wtestamark@boc.vi.gov
Telephone: (340) 773-6309



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CONTRACTOR

Kenneth Matthew
President
MattSCO Enterprises, Inc.
d/b/a Chef's Catering Service
P.O. Box 7976
Christiansted, VI 00823
Email: ethlyn.matthew@gmail.com
Telephone: (340) 778-1620

22. LICENSURE

The Contractor covenants that it has:

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

23. FACILITIES AND EQUIPMENT

- (a) The Government will furnish to Contractor, without charge, throughout the term of this Contract, office furniture, kitchen space, storage and equipment at the Government's correctional facilities as is necessary to enable Contractor to provide the services required hereunder and as is adequate to meet industry standards and to comply with all applicable Federal, State and Local codes, regulations, policies and ordinances. Such furniture, space, and equipment shall include frozen storage, dry storage, warehouse and storage place for inventory, office space and office furniture. In the event that the Government cannot provide the Contractor with the necessary furniture, space, and equipment to provide the services required hereunder, the Contractor shall find said facilities and the Parties will execute a Contract Amendment pursuant to the provisions of this Contract.
- (b) The Parties agree to jointly inventory all supplied fixtures and equipment within ten (10) days of the execution of this Agreement and the Government agrees that all such furniture and equipment shall either be in working condition or brought to such condition within twenty (20) days from completion of the inventory.
- (c) The Contractor shall clean all kitchen equipment, including delivery carts, trays, cups, spoons, and all other necessary small wares and all kitchen systems, including refrigeration, steam generation, hoods, ovens, kettles, deep fryers, illumination, ventilation, and temperature systems.
- (d) The Parties shall conduct an inventory and inspection of the facilities and identify any equipment, refrigeration or electrical systems that have reached or exceeded



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their useful life, or which has been damaged by acts of God, water leaks, pests, inmates or electrical fluctuations.

- (e) The Government shall replace equipment, refrigeration or electrical systems that have reached or exceeded its useful life as indicated in the manufacturer's warranty or which has been damaged by acts of God, water leaks, pests, inmates or electrical fluctuations on the condition that it was not caused by the negligent acts or omissions or intentional misconduct of the Contractor or its agents, servants or employees, in which case, Contractor shall be responsible for the replacement thereof. The Government shall be responsible for maintaining electrical, plumbing, water, sewer, transportation and electrical aspects of the facilities relative to food preparation, handling and serving; and repairing and maintaining the food storage and warehouse area and all buildings, including floors, walls, ceilings and doors.

The Contractor shall not be required to repair or maintain equipment, refrigeration or electrical systems that have reached or exceeded its useful life or has been damaged by acts of God, water leaks, pests, inmates or electrical fluctuations, unless the damage is caused by the negligent acts or omissions or intentional misconduct of the Contractor or its agents, servants or employees, in which case Contractor shall be responsible for the replacement thereof.

- (f) After the initial inspection, the Contractor shall promptly provide written notification to the Government of equipment repaired and in need of repair.
- (g) The Contractor shall not permit Government property or Government-owned equipment to be subject to any liens or encumbrances.
- (h) The Government shall not permit any of Contractor's property that is used in the performance of this contract to be subject to any liens or encumbrances of any kind.

24. EMPLOYEES

- (a) Contractor's employees at the Government's correctional facilities shall oversee and evaluate the quality control of food preparation at said facilities. All personnel in the kitchen, including inmates and Government employees working in the kitchen (excluding security personnel), shall be subject to the direct supervision of the Contractor's Food Service Manager on site. All of Contractor's employees performing services under this Contract shall possess a valid Food Handler's Permit from the Virgin Islands Department of Health.
- (b) Security matters will be the responsibility of the correctional officer assigned to the kitchen by the Government. Positions currently held by Government employees at



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the Government's correctional facilities or designated as Government positions at such facilities shall not be staffed by agents or employees of the Contractor.

- (c) All persons employed by Contractor in connection with its operations at the correctional facilities shall be on Contractor's payroll and deemed employees of Contractor for tax, insurance, and all other purposes.
- (d) Contractor's employees shall comply with all rules promulgated by the Bureau of Corrections for the safe and orderly conduct of the activities carried out at the correctional facilities. Contractor's employees, agents, and suppliers shall have access to those parts of the premises at the correctional facilities as is necessary to enable Contractor to carry out its responsibilities hereunder, provided that all Contractor employees, agents, and suppliers comply with strict security rules and regulations of the Bureau of Corrections.

Government shall assign inmate trustees to assist Contractor in the food service operations at the Government's correctional facilities. The number of inmates shall be at Contractor's discretion as Contractor deems necessary for the proper operation of the food service. The assigned inmate trustees shall be paid by the Government, which shall have exclusive responsibility for inmate compensation.

- (e) If the Government objects to the continued employment of any of Contractor's employees, the Government shall so notify Contractor in writing, stating the reason for Government's objection. Contractor shall immediately terminate such person's employment at the Government's correctional facilities under the prevailing circumstances in accordance with Contractor's employment policies; provided, however, that Contractor's obligation to dismiss an employee at the Government's request shall be subject to restrictions imposed upon Contractor by any federal, state or local statutes, law, code, regulation, ordinance or policy or by any collective bargaining agreement or other contract affecting such employee.
- (f) If Contractor objects to the continued assignment of any inmate trustee in any food service operations, Contractor shall so notify the Government in writing, stating the reason for Contractor's objection. The Government shall investigate the facts surrounding the Contractor's objection. If the investigation reveals that Contractor's objections are warranted, the Government shall immediately terminate the assignment of the inmate trustee from any food service operations.

25. OTHER PROVISIONS

Addenda I and II, attached hereto, are a part of this Contract and are incorporated herein by reference.



26. DEBARMENT CERTIFICATION

By execution of this contract, the contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The Contractor shall include this provision in each of its subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT". In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

27. FALSE CLAIMS

Contractor warrants that it 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 claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

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

29. FACSIMILE, 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

M. Joseph Mathurin

GOVERNMENT OF THE VIRGIN ISLANDS

W. Testamark
Wynnie Testamark, Director
Bureau of Corrections

6/23/2021
Date

Reginald A. Thomas

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

7/28/2021
Date

**MATTSCO ENTERPRISES, INC.
d/b/a Chef's Catering Service**

Arachni N. Vivaldi

Kenneth Matthew
Kenneth Matthew
President

6/10/21
Date

(Corporate seal, if Contractor is a corporation)

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY:

Carol McDonald
Assistant Attorney General

Date 7/28/2021

PURCHASE ORDER NO. _____

Contract No. P106BOCT21

Contractor's Initials: [Signature]