

**CONTRACT FOR PROFESSIONAL SERVICES for the
COMPUTERIZATION OF CORPORATION AND TRADEMARKS
DIVISION**

THIS AGREEMENT is made this 17th day of March, 2016, 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 **Office of the Lieutenant Governor** (hereinafter referred to as "Government") and **Foster Moore US, LLC** (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to implement automated online Business Entity, Uniform Commercial Code Liens and Trademarks Registries for the Corporations and Trademarks Division of the Office of Lieutenant Governor, which duties and responsibilities are more particularly described in **Addendum I** ("Scope of Work") attached hereto; and

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

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. DEFINITIONS PERTAINING TO CONTRACT

The following terms will, unless the context requires otherwise, have the following meanings:

1. "**Business Day**" means any day that is not a Saturday or a Sunday and not a day observed as a statutory holiday in the United States Virgin Islands;
2. "**Government Background IP**" means any Intellectual Property owned by the Government that existed prior to the date of this Contract or that was conceived, created, developed or reduced to practice by or on behalf of the Government independently of this Contract or any other agreement between the parties;
3. "**Confidential Information**" means any information which is confidential in nature or disclosed in confidence to one party by or about the other party, including without limit information of a business, financial, technical or non-technical nature or otherwise and whether existing in hard copy form, electronically or otherwise, but does not include any information which is:
 - a. on receipt by the recipient party, in the public domain or which subsequently enters the public domain without any breach of this Contract;
 - b. on receipt by the recipient party, already known by that party (otherwise than as a result of disclosure by the other party); or



- c. at any time after the date of receipt by the recipient party, received in good faith by the recipient party from a third party without any breach of an obligation of confidentiality by that third party.
4. **“Data”** means all data, content and information (including information about any identifiable, natural person) owned, held, used or created by or on behalf of the Government that is stored using, or inputted into, any Services enabled by the Licensed Software;
 5. **“Deliverables”** means the result(s) that the Contractor will create or achieve for the Government, as specified in a Statement of Work (including **Addendum I** (“Scope of Work”)) (and excludes the Licensed Software);
 6. **“Facilities”** means any items described as such in any Statement of Work (including such things as workstations, computers, LAN access) to be provided by the Contractor or the Government as specified in a Statement of Work;
 7. **“Intellectual Property”** includes copyright, patents, designs, trademarks, trade names, goodwill rights, trade secrets, confidential information, know-how and any other intellectual proprietary right or form of intellectual property existing anywhere in the world and whether registered or not;
 8. **“Licensed Software”** means the software licensed to the Government under one or more separate license agreements between the Government and Contractor or its licensor, and includes all patches, standard upgrades and revisions supplied by Contractor or its licensor under that or those license agreements;
 9. **“Licensed Software Documentation”** means the Contractor’s current standard documentation for the Licensed Software (including all standard user manuals, operating manuals, technical manuals and any other instructions, specifications, documents and materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, technical or other components, features or requirements of the Licensed Software that are made available by Foster Moore to its general customer base);
 10. **“Project”** means the project described in a Statement of Work, being the totality of the work described in the Scope of Work;
 11. **“Services”** means the professional services to be provided by Contractor to the Government as described in **Addendum I** (“Scope of Work”) (and excludes support and maintenance services, which are available in a *separate Maintenance Services Agreement*); and
 12. **“Statement of Work”** or **“SOW”** refers to a Statement of Work to be included in **Addendum I** (“Scope of Work”) for a specific projects related to this Contract, which Statements shall be signed by the parties, as varied or changed throughout the course of the Contract.

2. SERVICES

The Contractor will provide the Services described in **Addendum I** (“Scope of Work”) attached hereto and made a part of this Contract.

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3. TERM

The term contemplated by the parties' agreement is seven (7) years. This Professional Services Contract shall commence upon the execution of this Contract by the Governor of the Virgin Islands and shall terminate twenty-four (24) months thereafter.

While the parties have agreed to a Professional Services Contract for twenty-four (24) months, the parties intend to negotiate and enter into a *separate Maintenance Services Agreement* (as set forth in **Addendum VI**) for the provision of servicing and maintenance for the services provided under the Professional Services Contract, for a period of five (5) years. The *separate Maintenance Services Agreement* only becomes effective upon the entire system being able to "go-live" as agreed to by the parties. The *separate Maintenance Services Agreement* will survive the termination of the Professional Services Contract. The parties intend the *separate Maintenance Services Agreement* to include the terms substantially as set forth in **Addendum VI** ("Maintenance Services Agreement"), plus additional terms yet to be agreed upon, including terms as to scope and exclusions of warranties.

4. COMPENSATION

This is a fixed price contract for a total of **\$6,670,000.00**. The Government, in consideration of the performance of the Services described in **Addendum I** ("Statement of Work") in accordance with the terms of the Contract, agrees to pay Contractor a sum not to exceed **Five Million, Nine Hundred and Twenty Thousand (\$5,920,000.00) Dollars** as set forth in **Addendum II** ("Compensation Schedule") attached hereto and made a part of this Contract.

The **Five Million, Nine Hundred and Twenty Thousand (\$5,920,000.00) Dollars** is the fixed price for (1) the Implementation phase of the project, and (2) the Catalyst Registry Manager License fee for the software that will be necessary during the Implementation phase. The Catalyst Registry Manager License is subject to the terms of the End User Licensing Agreement as outlined in **Addendum V**, incorporated herein by reference.

Project Implementation/Services Details	Total Implementation and Services Price
Backfile Scanning and Indexing	
Business Entities Implementation	
UCC Implementation	
Trade Marks Implementation	
Auditing - Compliance Project	
Pricing ALL Implementation Services:	\$5,320,000.00
Catalyst Registry Manager License	\$ 600,000.00



The parties further agree that (in addition to the other terms yet to be negotiated and agreed) there will be a *separate Maintenance Services Agreement*, which will be for a fixed price of no more than Seven Hundred and Fifty Thousand (**\$750,000.00**) Dollars (as set forth in **Addendum II** ("Compensation") and **Addendum VI** ("Maintenance Services Agreement") attached hereto and made a part of this Contract).

5. TRAVEL EXPENSES

The Contractor agrees to bear the costs and expenses for transportation, subsistence, lodging and other travel expenses, and therefore, no travel expenses are included in this Contract.

6. RECORDS

The Contractor when applicable, if requested by the Government, will present documented precise records of money expended by the Government under this Contract and the work carried out by the Contractor under this Contract to which those amounts relate.

7. 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. The Contractor further warrants that it has the ability to perform the agreed Services and that all Services will be performed with due care and skill by people that have the requisite skills, expertise and competency for the Project or task.

8. DOCUMENTS, PRINTOUTS, ETC.

Subject to Contractor's ownership rights set out in **Addendum IV**, all documents, images, books, records, instructional materials, programs, printouts, data 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.

9. 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.

This is a fixed price contract for provision of services. Contractor warrants that it shall perform its services diligently, in good faith, and in a professional manner. Except for the warranties expressly set forth in this Contract, Contractor makes no other warranties, and expressly disclaims all other warranties, whether express or implied. In the event of a material breach of this warranty, the Government may seek any remedy available at law or

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equity, including monetary damages and return of fees paid to Contractor under this Contract. Prior to the Government exercising its right to seek any such remedy, Contractor shall be notified in writing and given thirty (30) days to cure the breach of this warranty and provide documentation thereof. The Government will not exercise any right to withhold without providing Contractor an opportunity to cure.

10. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government, which consent will not be unreasonably withheld or delayed. Contractor may subcontract or assign any part of the Services under this Contract to other entities that are related to Foster Moore US, LLC and the Foster Moore Group, without further consent from the Government.

The Government may subcontract or assign any part of the receipt of the services or deliverables under this Contract to any person provided that third party is not a competitor of the Contractor and provided further that in the case of assignment that person has sufficient resources and financial standing to perform all of the assigned obligations under or in connection with the Contract. The Government will remain principally liable for the performance of any subcontracted obligations under or in connection with this Contract despite any subcontracting.

11. INDEMNIFICATION

(a) 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 the 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.

(b) Contractor agrees to indemnify, defend and hold harmless the 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 which the Government may incur, sustain or be subjected to, arising out of bodily injury or damage to property, or connected to the deliverables to be provided by Contractor under this Contract infringing any third party's intellectual property rights, in each case to the extent caused by Contractor's negligence, willful misconduct or fraud. The obligation to indemnify is subject to the Government (i) promptly notifying the Contractor of the potential loss, claim or proceeding, (ii) making no admission of liability and not otherwise prejudicing or settling the claim or proceeding without the Contractor's prior written consent, (iii) giving the Contractor complete authority and information required for the contractor to conduct and/or settle the negotiations and litigation relating to the loss, claim or proceeding (and the costs incurred or recovered are for the Contractor's account).

(c) NOTWITHSTANDING ANY TERM OR PROVISION IN THIS CONTRACT TO THE CONTRARY, THE LIMITATION ON CONTRACTOR'S

LIABILITY SHALL NOT APPLY IN THE EVENT OF GROSS NEGLIGENCE, RECKLESS CONDUCT, OR WILLFUL MISCONDUCT ON THE PART OF CONTRACTOR.

12. LIMITATION ON LIABILITY

(a) Contractor's maximum aggregate liability to the Government under or relating to this Contract shall be limited to 1.5 times (i.e. one and a half times) the total amount paid by the Government to Foster Moore under this Contract prior to the event giving rise to liability. In no event shall Contractor be liable to the Government for any (i) indirect, special, incidental, exemplary or consequential damages, or (ii) any loss of profits, revenue, savings, business, use, data, and/or goodwill, relating to or arising from Contractor's performance under this Contract or Contractor's breach of any provision or obligation under this Contract or arising from any cause of action under this Contract, including contract, warranty, tort, indemnity, or negligence.

(b) Notwithstanding any term or provisions in this contract to the contrary, the limitation on Contractor's liability set out in subsection (a.) of this section shall not apply in the event of gross negligence, reckless conduct, or willful misconduct on the part of the Contractor.

13. 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.

14. GOVERNING LAW AND DISPUTE RESOLUTION

This Contract shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands. This Contract shall be governed by the laws of the United States Virgin Islands without regard to conflict of laws principles. Any and all suits for the enforcement of this Contract or arising from any breach of this Contract shall be filed and maintained in a court of competent jurisdiction in the United States Virgin Islands. If any dispute occurs between the parties, they shall attempt in good faith first to resolve the dispute by negotiation initiated through the dispute resolution process set out below.

14(a) Dispute Resolution Process

- (a) The party initiating the dispute ("the first party") must provide written notice of the dispute to the other party ("the other party") and nominate in that notice the first party's representative for the negotiations. The other party must within 10 Business Days' of receipt of the notice, give written notice to the first party naming its representative for the negotiations. Each representative nominated will have authority to settle or resolve the dispute.
- (b) If the parties are unable to resolve the dispute by discussion and negotiation within 20 Business Days' of receipt of the written notice from the first party under clause (a), then the parties must immediately refer the dispute to

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mediation by one party notifying the other party in writing that the dispute is referred to mediation. The mediator shall be a mutually acceptable mediator in the United States Virgin Islands and selected from the American Mediation Institute. The mediator shall designate a place in the United States Virgin Islands for a meeting of the mediator with representatives of the parties. The cost of the mediator will be equally shared by the parties.

- (c) The mediation will be conducted in the United States Virgin Islands in accordance with the standard mediation rules of the American Mediation Institute.

15. 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.

16. ENTIRE AGREEMENT

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

17. RIGHT TO WITHHOLD

(a) If work under this Contract is not performed materially in accordance with the terms hereof, Government will have the right to withhold out of the relevant payment due to Contractor, such sums as are proportionate to the non-performance to protect it against loss or to assure payment of claims arising therefrom, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold, and the parties may enter into a written, mutually satisfactory agreement with respect to the amount to be withheld.

(b) 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.

18. CONDITION PRECEDENT



This Contract shall be subject to the availability of funds and to the approval of the Governor, which Foster Moore shall be entitled to rely on as satisfied once the Governor executes this Contract.

19. TERMINATION

Unless terminated sooner in accordance with its terms, this Contract shall terminate on the completion of the Services. This Contract may be terminated by either party at any time, with or without cause, by giving written notice to the other party not less than thirty (30) days before the effective date of termination; provided that, in the event of a termination for cause, the breach must be a material breach and the breaching party shall have the right to cure that breach within the notice period.

On termination earlier than the expiration of the twenty-four (24) month term, the Government will pay the Contractor for all Services and Deliverables provided up until the date of termination and any documented charges and costs that Contractor has or will incur as a result of the early termination, provided that the total amount payable to the Contractor must not exceed the sum for the fixed price set out in Section 4 ("Compensation") of the Professional Services Contract. This clause does not limit any other remedies or rights Contractor may have in relation to a breach of Contract by the Government.

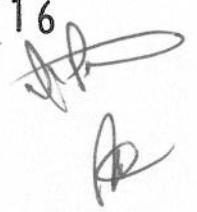
All clauses of this Contract, which by their nature survive the termination of this Contract, including Sections 11(c), 12, 24, 31, **Addendum IV**, **Addendum V** and **Addendum VI**, remain in effect beyond termination of this Contract.

20. 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. The parties must agree, by negotiating in good faith, a fair level of reduction in fees (if any) taking into account the reduced scope of services to be received by the Government, the reduced scope of resources and work effort (if any) on the part of Contractor to provide the reduced scope of services, the milestone payments, and any other relevant factors. 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.

21. FORCE MAJEURE

- (a.) Neither party is liable to the other for any failure to perform its obligations under this Contract to the extent the failure is caused by a Force Majeure Event. The party subject to a Force Majeure Event shall immediately notify the other party of the occurrence of such event and take all reasonable steps and best efforts to restore its ability to perform its obligations under this Contract.
- (b.) A "Force Majeure Event" is any event beyond the reasonable control of the parties that causes any failure to perform their respective non-monetary obligations, including but not limited to acts of God, acts of the public enemy, civil insurrection, war, riots, fire, flood, explosion, power outages, communication lines or internet

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failure, pandemic, strikes, lockouts or lawful acts of public authorities, which cannot reasonably be foreseen or provided against.

22. 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.

23. 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;
- (iii) no financial interest in the Contract as that term is defined in section 1101(1) of said Code chapter.

24. NON-SOLICITATION

Neither party will solicit, employ or otherwise engage the services of the other party's personnel (including employees and contractors) without the other party's consent (which may be provided subject to payment of a fee by the first party). This clause survives termination of the contract for a period of six (6) months.

Nothing in this Contract prevents Contractor from entering into similar agreements with others or from developing and providing materials or services which are similar to those Services and Deliverables provided under this Contract.

25. EFFECTIVE DATE

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

26. NOTICE

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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

Randolph N. Bennett
Commissioner
Department of Property and Procurement
Sub Base, Building #1, Third Floor
St. Thomas, Virgin Islands 00802

Osbert E. Potter
Lieutenant Governor/Insurance Commissioner
5049 Kongens Gade
St. Thomas, USVI 00802

CONTRACTOR

Kelly Kopyt
Foster Moore US, LLC
5520 Dillard Drive, Suite 280
Cary, NC 27518-9237

27. 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.

28. GOVERNMENT RESPONSIBILITIES

(a) The Government shall cooperate with Contractor, including, without limitation, providing Contractor with reasonable facilities and timely access to data, information and personnel and other resources of the Government as requested in **Addendum III** ("Required Resources") so that the Contractor may perform the tasks as described in **Addendum I** ("Statement of Work"). The Government shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of data and information provided to Contractor for purposes of the performance of the Services. The Government acknowledges and agrees that Contractor's performance is dependent upon the timely and effective satisfaction of the Government's responsibilities hereunder and timely decisions and approvals of the Government in connection with the Services. Contractor shall be entitled to rely on all decisions and approvals of the Government. The Government shall be solely responsible for, among other things: (i) designating a competent management member to oversee the Services; and (ii) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

(b) Where there is a change in the Government personnel involved in a Project, and such change in personnel results in delays and/or additional costs to Contractor in



performing Contractor's obligations under this Contract, Contractor shall provide thirty (30) days' written notice to the Government of how Contractor may (if feasible):

- (i) amend the project plan for the Project to reduce potential additional costs to both the Government and the Contractor.

29. CHANGE CONTROL PROCESS

No variation to the Deliverables, the scope of the Services or other aspect of a Statement of Work shall be made unless the parties have agreed to implement a Change Request in accordance with the following change control process:

- (a) Either party may propose any variation to the Deliverables, the scope of the Services or any other aspect of a Statement of Work. A request by a party must be in writing with reasonable detail, including any corresponding reduction in Deliverables or Services that the party proposes so as to ensure that the total cost payable for the providing the Deliverables and Services (as varied), including the cost of implementing any agreed Change Request, will not exceed the amount agreed by the parties as the fixed price sum for the Contract as set out in Section 4 ("Compensation") of the Professional Services Agreement.
- (b) Following a request by the Government, or at the time that Contractor submits a request, Contractor shall provide a proposal for the changes required, including as to the cost, time and scope of work required, to implement such request (if feasible). On receipt of the Contractor's proposal, the Government will have ten (10) Business Days (or such longer time as set out in the proposal) to accept or reject the proposal. If both parties wish to proceed, the changes will be agreed in writing and recorded as a variation to this Contract. Contractor will be entitled to charge actual, additional costs incurred by Contractor in assessing a variation proposed by the Government (and Contractor will provide such documentation as is available evidencing the additional costs) provided that the Fixed Price is not exceeded.

30. DELAY

Unless expressly agreed otherwise in writing, timing for completion of a Project, and for achievement of Project milestones, as specified in a Statement of Work is automatically extended by the following:

- (a) variations and change requests under the change request provisions - in respect of which the extension period matches the additional time required on the Project (and for achievement of Project milestones affected by the change request) as a result of the variation or change request;
- (b) delays by the Government in meeting the Government obligations under this Contract, delays by the Government in signing the license terms and conditions for the Licensed Software, and delays caused by the negligence or misconduct of the Government - in respect of which the extension period matches the duration of the delay;



- (c) delays caused by any suspension of the delivery of the Services or Deliverables by the Contractor in accordance with the terms of the Contract – in respect of which the extension period matches the period of the suspension; and/or
- (d) delays caused by a Force Majeure Event (as that phrase is defined in Section 21b) – in respect of which the extension period matches the period of the delay,

provided that the automatic extension under this clause does not result in the Term of the Contract extending past the fixed two year period. Where clause (a), (b), (c) or (d) applies (“Delay Event”) and the Delay Event results in (i) additional costs to Contractor in performing Contractor’s obligations under this Contract, or (ii) would result in the Term of the Contract extending past the fixed two year period, Contractor may on notice to the Government, amend the charges payable by the Government to reflect actual, additional costs incurred by Contractor as a result of the Delay Event (and Contractor will provide such documentation as is available evidencing the additional costs) and/or propose a Change Request under the change request provisions to reflect any change reasonably necessary (including a reduction in the scope of the Services and Deliverables) to ensure that the total cost and time of providing the Services and Deliverables does not exceed the Fixed Price or the twenty-four (24) month term, and the Government may not unreasonably withhold or delay consent to such a Change Request.

31. CONFIDENTIAL INFORMATION

Since this Contract includes proprietary intellectual information, each party agrees to keep confidential at all times all Confidential Information disclosed to it by or about the other party, and as set forth in accordance with **Addendum IV** (“Intellectual Property and Data & Third Party Products”). Each party will ensure that all Confidential Information of the other party is protected at all times from unauthorized access or use by, or disclosure misuse, damage or destruction by any person. Both the Government and the Contractor covenant that each will only disclose the other party’s Confidential Information to its personnel or professional advisers on a “need to know” basis and, in that case, ensure that any personnel or professional adviser to whom it discloses the other party’s Confidential Information is aware of, and complies with, the provisions of this clause.

32. WARRANTIES BY CONTRACTOR

(a) Contractor warrants that the Deliverables supplied under **Addendum I** (“Statement of Work”) will substantially conform to the description and specifications for those Deliverables for ninety (90) days following completion and acceptance of all the modules as outlined in **Addendum I**. This warranty does not apply: a) if the Deliverable is not used in accordance with any documentation or other reasonable instructions provided by the Contractor, b) if a defect is caused by any modification to the Deliverables (except for modifications made by Contractor), c) if the Deliverable is used with any third party products not recommended or approved by Contractor, (d) if the Deliverable is based on reasonably detailed designs, specifications or other information provided by or at the direction of the Government, or (e) if the Deliverable is used other than for the purposes contemplated by this contract. In order to make a claim under this warranty, the Government must notify Contractor in writing within the ninety (90) day warranty period, providing



details of the non-conformance. If the warranty claim is accepted by Contractor, Contractor will remedy the non-conforming Deliverable so that it meets the warranty.

(b) Any warranties made to the Government under this Contract extend solely to the Government and may not be relied on by any third party.

33. OTHER PROVISIONS

(a) **Addendum I** (including Statements of Work incorporated), **Addendum II**, **Addendum III**, **Addendum IV**, **Addendum V** and **Addendum VI** attached hereto are a part of this Contract and are incorporated herein by reference.

(b) In the event that any provision of this Contract shall be held prohibited by law or otherwise be invalid, the validity of the remaining provisions of this Contract shall not in any way be affected thereby.

34. DEBARMENT CERTIFICATION

To the extent that Contractor receives federally appropriated funds, then: 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"; and 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 using federal funds 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 such progress payments heretofore made.

35. 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.

36. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Contract may be funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

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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]

[Signature]

2/25/16
Date

Honorable Osbert Potter
Lieutenant Governor

[Signature]

[Signature]

3/4/16
Date

Randolph N. Bennett,
Commissioner
Department of Property and Procurement

[Signature]

CONTRACTOR

[Signature]

FEB 25/16
Date

Bill Clarke
Foster Moore US, LLC
5520 Dillard Drive, Suite 280
Cary, NC 27518-9237

APPROVED:

[Signature]

Date: 3/17/16

Kenneth E. Mapp
GOVERNOR OF THE VIRGIN ISLANDS

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY:

[Signature] Date 3/4/2016

PURCHASE ORDER NO.

[Signature]