

**MEMORANDUM OF AGREEMENT**  
**Between the**  
**VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT**  
**On behalf of the**  
**VIRGIN ISLANDS DEPARTMENT OF EDUCATION**  
**And the**  
**UNIVERSITY OF THE VIRGIN ISLANDS**

April **THIS MEMORANDUM OF AGREEMENT ("Agreement")** is made this 26<sup>th</sup> day of April, 2019, by and between the **GOVERNMENT OF THE VIRGIN ISLANDS, DEPARTMENT OF PROPERTY AND PROCUREMENT**, of Bldg #1 Sub Base, Third Floor, St. Thomas, U.S. Virgin Islands, on behalf of the **VIRGIN ISLANDS DEPARTMENT OF EDUCATION**, 1834 Kongens Gade, St. Thomas, U.S. Virgin Islands, (hereinafter "the Government") and the **UNIVERSITY OF THE VIRGIN ISLANDS**, No. 2 John Brewers Bay, St. Thomas, U.S. Virgin Islands, an instrumentality of the Government of the United States Virgin Islands (hereinafter "the University") on behalf of the Eastern Caribbean Center.

**WITNESSETH:**

**WHEREAS**, Virgin Department of Education, ("VIDE"), pursuant to Title 3 Virgin Islands Code, Chapter 7, Section 96, is required to promote the cause of education, and achieve a high level of general education throughout the Virgin Islands, and is authorized to exercise such powers, and perform such other duties and functions, as may be prescribed by law, to fulfill this duty; and

**WHEREAS**, VIDE, through its State Office of Special Education (hereinafter "SOSE") is mandated by 20 U.S.C §1416(a)(3) and (b)(2) to report on the progress or slippage in meeting the measurable and rigorous targets in accordance with the requirements set forth by the Secretary of Education in its State Performance Plan (SPP) and Annual Performance Report (APR), Indicator 8 *"Number of respondent parents who report that schools facilitated parental involvement as a means of improving services and results for children with disabilities"*; and

**WHEREAS**, the University in collaboration with SOSE will develop procedures for carrying out a survey entitled *"Special Education Parent Satisfaction Survey 2017"* that will provide reliable estimates of the degree of parents' satisfaction with the Special Education Program and the services provided by Virgin Islands Department of Education; and

**WHEREAS**, the purpose of this Memorandum of Agreement is to delineate the duties and responsibilities of the University and the SOSE in conducting a scientific telephone sample survey among parents/families with children/wards who have Individualized Education Programs (hereinafter "IEPs"); and

**WHEREAS**, the University, is an instrumentality of the Government of the United States Virgin Islands represents that it is willing to and capable of providing such services; and

**WHEREAS**, the Government is authorized to enter into this agreement pursuant to Title 17 Virgin Islands Code, Chapter 33, Section 467(a)(1), which provides for Cooperation by Government and Title 3, Section 74 which provide Government to enter into Contracts with the University for government research projects; and

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

1. **SERVICES.** The University will be responsible for providing the services set forth in Addendum I (Scope of Services), attached hereto and incorporated herein by reference.

2. **TERM.** This Agreement shall commence upon the execution of this Memorandum of Agreement by the Governor of the U. S. Virgin Islands and shall terminate on November 30, 2019.

3. **COMPENSATION.** The Government in consideration of the services provided by the University agrees to pay the University the sum of **SEVENTY-NINE THOUSAND DOLLARS AND SIXTY-THREE CENTS (\$79,000.63)** in accordance with the provisions set forth in ADDENDUM II (Compensation) attached hereto and incorporated herein by reference.

4. **TRAVEL EXPENSES.** Inclusive of the compensation for services as specified in Paragraph 3 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, including reimbursement at a rate of \$75.00 per diem for all meals. 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 Two Thousand, Nine Hundred Ten Dollars and Zero Cents (\$2,910.00).

5. **CONDITION PRECEDENT.** This Agreement shall be subject to the availability of funds appropriated for such purpose and to the approval of the Governor of the United States Virgin Islands.

6. **EFFECTIVE DATE.** The effective date of this Agreement shall be the day of execution by the Governor.

7. **FISCAL RESPONSIBILITY.**

(a) The University of the Virgin Islands shall prepare and submit to the Government a Budget(s) detailing the expenditures to be generated for each activity based on the amount disbursed by the Government. A copy of the Budget(s), identified as Attachment A, is attached hereto, incorporated herein by reference, and made a part of this Agreement.

(b) The University shall maintain an accounting system to manage the federal funds received from this project in accordance with the "*Standards for Financial Management Systems*" set forth in 34 CFR Part 74.

(c) The University shall expend the funds in accordance with all applicable local and federal laws, rules and regulations.

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- (d) The University shall be responsible for providing a financial report(s) to the Government which outlines all expenditures associated with the Program as outlined in this Agreement at the end of the Program.
- (e) The University shall return to the Government for its disposition, any sum of money which the University, its auditors or any other authorized representative has determined was not utilized in conformity with this Agreement or remains unspent at the termination of this Agreement.
- (f) The University shall keep records that fully show:
1. The amount of funds under the Agreement;
  2. How the University uses the funds;
  3. The total cost of the program;
  4. The share of cost provided from other sources; and
  5. Other records to facilitate an effective audit.
- (g) The University shall prepare and submit to the Government, invoices that correspond with the compensation schedule delineated in ADDENDUM II, ATTACHMENT A, attached hereto, incorporated herein by reference, and made a part of this Agreement, detailing the expenditures funded for each activity based on the agreement amount advanced and/or to be paid by the Government for the fees and costs identified in University's Budget(s), attached hereto as ATTACHMENT A, incorporated herein by reference, and made a part of this Agreement. Each invoice shall have attached supporting documents including but not limited to, all related time sheets, student attendance records, cancelled checks, receipts, and vendor billings and invoices.

**8. WITHHOLDING OF PAYMENT.** If any term or condition is not performed under this Agreement, the Government will have the right to withhold any payment or appropriation due to the University. The Government will notify the University in writing in the event that it elects to exercise its right to withhold under this paragraph.

**10. CONFIDENTIALITY.** The University shall comply with any and all local and federal laws regarding confidentiality of student information, and shall release student information only upon compliance with any and all local and federal laws and obtaining proper authorization from VIDE or other legally responsible parties, and upon notice to DOE as prescribed in Paragraph 14 of this Agreement.

**11. TERMINATION.** Either party shall have the right to terminate this Agreement with or without cause upon thirty (30) days written notice to the other party specifying the date of termination. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred, or obligated, in accordance with the terms of this Agreement prior to the effective date of termination.

**12. 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 Agreement on the basis of race, creed, color, sex, religion, national origin or disability.

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13. **DEBARMENT CERTIFICATION.** By execution of this Memorandum of Agreement, the University 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 University agrees not to subcontract or assign the services described herein. In the event the University misrepresents its eligibility to receive contract awards using federal funds, the University shall not be entitled to payment for any work performed under this agreement or shall promptly reimburse the Government for any progress payments heretofore made.

14. **NOTICE.** Any notice required herein 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 Designee  
Department of Property & Procurement  
Sub Base, Building No. 1  
St. Thomas, U.S. Virgin Islands 00802

Racquel Berry Benjamin  
Commissioner Designee  
Department of Education  
1834 Kongens Gade  
St. Thomas, U.S. Virgin Islands 00802-6746

David Hall, S.J.D., President  
University of the Virgin Islands  
No. 2 John Brewer's Bay  
St. Thomas, U. S. Virgin Islands 00802

15. **GOVERNING LAW.** This Agreement shall be governed by the laws of the U.S. Virgin Islands without regard to conflict of laws principles. Any and all suits for the enforcement of this Agreement shall be filed and maintained in a court of competent jurisdiction in the U.S. Virgin Islands.

16. **AMENDMENTS AND MODIFICATIONS.** No waiver, modification or amendment of any term, condition or provision of this Agreement 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 Agreement, but the same shall be strictly limited and restricted to the extent and occasion specified in such a signed writing or writings.

17. **MERGER CLAUSE.** 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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**18. 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, 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 this Contract as that term is defined in Section 1101(1) of said Code chapter.

**19. FALSE CLAIMS.** The University warrants that it shall not, with respect to this Agreement, 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. University acknowledges that making such a false, fictitious or fraudulent claim is an offense under United States and Virgin Islands law.

**20. NOTICE OF FEDERAL FUNDING.** The University acknowledges that this Agreement is funded, in whole or in part, by federal funds. University warrants that it shall not, with respect to this Agreement, make or present any claim knowing such claim to be false, fictitious or fraudulent. The University acknowledges that making such a false, fictitious, or fraudulent claim is a federal offense.

**21. PROFESSIONAL STANDARDS.** The University agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

**22. DOCUMENTS, PRINTOUTS, ETC.** All documents, books, records instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this Agreement shall become the property of the Department and shall be turned over to it at the termination of this Agreement. The above described material shall be used by the University or by any other person or entity except upon the written permission of the Department.

**23. ASSIGNMENT.** Neither party shall subcontract or assign any part of the services or responsibilities under this Agreement.

**24. INDEMNIFICATION.** TO the extent permitted by law, the University agrees to indemnify, defend and hold harmless the Government from and against any 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 the University under this Agreement and arising from any cause, except the sole negligence of Government.

25. **INDEPENDENT CONTRACTOR.** The University shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status.

26. **CONDITION PRECEDENT.** This Agreement shall be subject to the availability and appropriation of funds and to the approval of the Governor.

27. **PARTIAL TERMINATION.** The performance of work under this Agreement may be terminated by the Government, in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the University a Notice of Partial termination specifying the extent to which the term and/or duties under this Agreement are terminated and the date upon which such termination becomes effective. The University shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the 30-day notice.

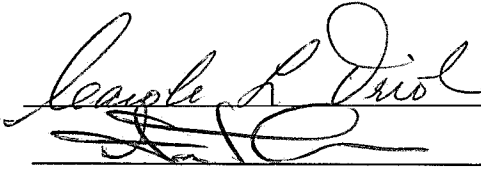
28. **LICENSURE.** The University covenants that it has:

- (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.

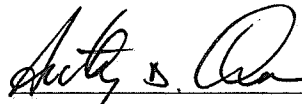
29. **OTHER PROVISIONS.** Addenda I and II attached hereto are a part of this Agreement and are incorporated herein by reference.

IN WITNESS WHEREOF, the parties intending to be legally bound have hereunto set their hands on the day and year first above written.

WITNESSES:

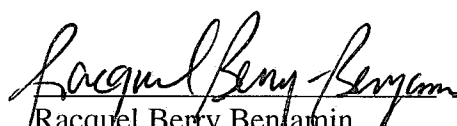
  
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GOVERNMENT OF THE VIRGIN ISLANDS  
DEPARTMENT OF PROPERTY AND PROCUREMENT

  
Anthony D. Thomas  
Commissioner Designee

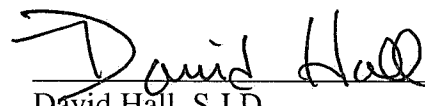
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Date

DEPARTMENT OF EDUCATION

  
Racquel Berry Benjamin  
Commissioner Designee

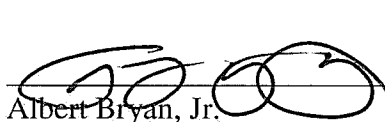
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Date

UNIVERSITY OF THE VIRGIN ISLANDS

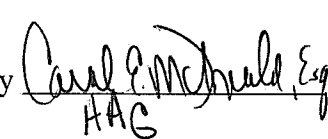
  
David Hall, S.J.D.  
President

3/19/19  
Date

APPROVED:

  
Albert Bryan, Jr.  
Governor of the Virgin Islands

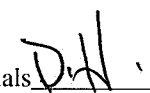
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Date

Approved for Legal Sufficiency   
HAG

4/11/19  
Date

Purchase Order. No.: \_\_\_\_\_

UVI Account Code No.: \_\_\_\_\_

UVI Initials   
Agreement No.

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