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## MEMORANDUM OF AGREEMENT

**THIS MEMORANDUM OF AGREEMENT** ("MOA") is made this 28<sup>th</sup> day of September 2020, 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 **DEPARTMENT OF EDUCATION** of 1834 Kongens Gade, St. Thomas, U.S. Virgin Islands 00802 (hereinafter referred to as "Government ") and **UNIVERSITY OF THE VIRGIN ISLANDS** (an instrumentality of the Government of the United States Virgin Islands) of No. 2 John Brewers Bay, St. Thomas, U.S. Virgin Islands, an instrumentality of the Government of the United States Virgin Islands (hereinafter referred to as "the University").

### WITNESSETH:

**WHEREAS**, the Government through the 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**, the University, pursuant to 17 V.I.C. §454(b) shall provide instruction, conduct research and disseminate knowledge in the liberal arts and sciences and such other branches of advanced learning; and

**WHEREAS**, as a result of the Coronavirus "COVID-19" pandemic and the Government's mandate to exercise social distancing to mitigate the spread of the virus, virtual instruction will be provided to all kindergarten 12<sup>th</sup> grade students during the first semester of the 2020-2021 School Year; and

**WHEREAS**, the Government is in need of professional development training to support its Schools Guidance Counselors, Teachers and District Administrators (participants) in implementing strategies of supporting children with challenging behaviors and other social, emotional, and mental health concerns; and

**WHEREAS**, the University through its Center for Excellence in Leadership and Learning ("CELL") will administer its *Mental Health Technician Program*, a 225 hour online training program to approximately eighteen (18) guidance counselors to assist them in acquiring additional professional and pedagogical knowledge, skill, and disposition required to implement necessary strategies to support students' in need and prepare them for the Certified Health Technician national certification examination; and

**WHEREAS**, the University, an instrumentality of the Government of the United States Virgin Islands was selected to provide the services pursuant to 31 V.I.C. § 239(a)(8); and

**WHEREAS**, the University represents that it is willing to and capable of providing such services; 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, the parties hereto do covenant and agree as follows:

#### **1. SERVICES**

The University 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**

This MOA shall be effective upon the date of execution of this MOA by the Commissioner of Property and Procurement and shall terminate on December 15, 2020. Notwithstanding, the Department may automatically extend the term of the Contract through June 15, 2021, subject to the U.S. Department of Education's approved extension of the 2017 Consolidated Grant Award.

#### **3. COMPENSATION**

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay the University a sum not to exceed **Twenty-Two Thousand, Five Hundred Dollars and Zero Cents (\$22,500.00)** in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this MOA.

#### **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 N/A (\$ N/A).

#### **5. RECORDS**

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

#### **6. 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.

#### **7. DOCUMENTS, PRINTOUTS, ETC.**

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom and pertaining to this MOA, with the exception of any pre-



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existing course material developed for the courses listed in Addendum I which will remain University property, shall become the property of the Government and shall be turned over to it at the termination of this MOA. The above described materials shall not be used by the University or by any other person or entity except upon the written permission of the Government.

## **8. LIABILITY OF OTHERS**

Nothing in this MOA shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by the University 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 the University of whatsoever nature, including but not limited to unemployment insurance and social security taxes for the University its servants, agents or independent contractors.

## **9. ASSIGNMENT**

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

## **10. INDEMNIFICATION**

To the extent permitted by law, the University agrees to indemnify, defend and hold harmless 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 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 MOA and arising from any cause, except the sole negligence of Government.

## **11. INDEPENDENT CONTRACTOR**

The University shall perform this MOA as an independent contractor, and nothing herein contained shall be construed to be inconsistent with this relationship or status.

## **12. GOVERNING LAW**

This MOA 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 MOA 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



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of the terms, conditions or provisions of this MOA. 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 MOA 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 MOA is not performed in accordance with the terms hereof, Government will have the right to withhold out of any payment due to the University such sums as Government may deem ample 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 University 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 the University gives satisfactory assurance to Government that such claims will be paid by University or its insurance carrier, if applicable in the event that such contest is not successful.

#### **16. CONDITION PRECEDENT**

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

#### **17. TERMINATION**

Either party will have the right to terminate this MOA 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 MOA 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 University. 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 MOA 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 thirty (30) day notice.



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**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 MOA on account of race, creed, color, sex, religion, disability or national origin.

**20. CONFLICT OF INTEREST**

The University 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 MOA.

**21. NOTICE**

Any notice required to be given by the Terms of this MOA 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**

Anthony D. Thomas  
Commissioner  
Department of Property and Procurement  
8201 Sub Base, Suite 4  
St. Thomas Virgin Islands 00802

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

Suzanne Darrow-Magras  
Director, Center for Excellence in Leadership and Learning  
University of the Virgin Islands  
No.2 John Brewer's Bay  
St. Thomas, U.S. Virgin Islands 00802

**22. LICENSURE**

The University covenants that it has:

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



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### **23. OTHER PROVISIONS**

Addendum I and II, and Attachment A attached hereto are a part of this MOA and are incorporated herein by reference.

### **24. DEBARMENT CERTIFICATION**

By execution of this MOA, the University certifies that it is eligible to receive awards using federally appropriated funds and that it has not been suspended or debarred from entering into agreements with any federal agency. The University 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 University or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the University or subcontractor agrees that it shall not be entitled to payment for any work performed under this MOA or any subcontract and that the University or subcontractor shall promptly reimburse the Department for any progress payments heretofore made.

### **25. FALSE CLAIMS**

The University warrants that it shall not, with respect to this MOA, 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. The University acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

### **26. NOTICE OF FEDERAL FUNDING**

The University acknowledges that this MOA is funded, in whole or in part, by federal funds. The University warrants that it shall not, with respect to this MOA, 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 offence.

### **27. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES**

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



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

WITNESSES

[Signature]

[Signature]

GOVERNMENT OF THE VIRGIN ISLANDS

Racquel Berry Benjamin 9/25/2020  
Racquel Berry Benjamin, Commissioner Date  
Department of Education

Anthony D. Thomas 9/28/2020  
Anthony D. Thomas, Commissioner Date  
Department of Property and Procurement

UNIVERSITY OF THE VIRGIN ISLANDS

[Signature]

David Hall 9/24/2020  
David Hall, S.J.D., President Date  
University of the Virgin Islands

APPROVED AS TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE BY: Paul P. McNeil Date 9/28/2020

PURCHASE ORDER NO. \_\_\_\_\_