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MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("MOA") is made this 16th 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 Department of Health (hereinafter referred to as "Government") and University of Utah, a body politic and corporate of the State of Utah, on behalf of its Rocky Mountain Cancer Data Systems (hereinafter referred to as "University of Utah").

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to provide Central Cancer Registry software and support to the Virgin Islands Central Cancer Registry (VICCR), which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, the University of Utah was selected in accordance with 31 V.I.C. § 239(a)(3); and

WHEREAS, University of Utah 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. SERVICES

University of Utah 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 the Department of Property and Procurement and shall terminate two (2) years thereafter (the "Term"). The Government in its sole discretion, shall have the option to renew this MOA for a period of one (1) additional year subject to the same terms noted herein, by providing University of Utah with sixty (60) days written notice of the Government's election to renew.

3. COMPENSATION



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The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), agrees to pay University of Utah a sum not to exceed Fifteen Thousand Three Hundred Forty Eight Dollars and No Cents (\$15,348.00) 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.

5. RECORDS

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

6. PROFESSIONAL STANDARDS

University of Utah 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 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 University of Utah 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 University of Utah 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 University of Utah of whatsoever nature, including but not limited to unemployment insurance and social security taxes for University of Utah, its servants, agents or independent contractors.



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9. ASSIGNMENT

University of Utah 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 allowed by law, University of Utah 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 University of Utah under this MOA and arising from any cause, except the sole negligence of Government.

Government acknowledges that University of Utah is a governmental entity under the Governmental Immunity Act of Utah, Utah Code Ann., Section 63G-7-101 et seq., as amended (the "Act"). Nothing in this MOA shall be construed as a waiver by University of Utah of any protections, rights, or defenses applicable to it under the Act, including without limitation, the provisions of Section 63G-7-604 regarding limitation of judgments. It is not the intent of University of Utah to incur by contract any liability for the operations, acts, or omissions of Government or any third party and nothing in the Agreement shall be so interpreted or construed.

11. INDEPENDENT CONTRACTOR

University of Utah 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; provided that the laws of Utah, addressing governmental immunity, shall apply in assessing the extent of any defenses, protections or liability of the University of Utah in connection with the performance of this MOA.

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



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any 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 University of Utah, 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 of Utah 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 University of Utah gives satisfactory assurance to Government that such claims will be paid by University of Utah 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 the Department of Property and Procurement.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on sixty (60) 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 sixty (60) days written notice to the University of Utah. This partial termination shall be effected by delivering to the University of Utah 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 of Utah shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the sixty (60) 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

University of Utah 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 U.S. Virgin Islands 00802

Justa E. Encarnacion, RN, BSN, MBA/HCM
Commissioner
Department of Health
1303 Hospital Ground – Suite 10
St. Thomas, VI 00802
Attn: VICCR Director

UNIVERSITY OF UTAH

Daniel West Denhalter, MSPH
Director
Rocky Mountain Cancer Data Systems
375 Chipeta Way, Suite C
Salt Lake City, UT 84108



22. LICENSURE

University of Utah 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. OTHER PROVISIONS

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

24. DEBARMENT CERTIFICATION

By execution of this MOA, the University of Utah 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. University of Utah 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 University of Utah or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the University of Utah 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 of Utah or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

25. FALSE CLAIMS

University of Utah 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. University of Utah acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

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



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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.

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

WITNESSES

GOVERNMENT OF THE VIRGIN ISLANDS

<u>Denise A Dunlop-Harley</u>	<u>Justa E. Encarnacion</u> Justa E. Encarnacion, Commissioner Department of Health	6/18/2021 Date
<u>Regulation A. Moore</u>	<u>Anthony D. Thomas</u> Anthony D. Thomas, Commissioner Department of Property and Procurement	7/16/2021 Date

UNIVERSITY OF UTAH

<u>Witness</u>	<u>Cynthia Best</u> Cynthia Best, Associate Dean	6/7/2021 Date
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APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: Carol E. McDonald Date 7/15/2021
Assistant Attorney General

PURCHASE ORDER NO. 00018209

MOA No. G040DOHT21

Initials: CPJ