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[VERSION:9/30/2022(1)]

INSTRUCTIONS FOR MEMORANDA OF AGREEMENT VALUED OVER \$1,000,000.00:

1. These instructions are not a part of the template, do NOT submit these Instructions to DPP.
2. All information in red font must be updated by the User Agency in completing the contract. The red font is meant to draw the user agency's attention to the areas which require changes. Upon updating the required sections, please change the font color to black. DO NOT SUBMIT DOCUMENTS TO DPP WITH RED FONT.
3. In instances where a word is in square brackets in red font, like this [User Agency] agencies must update the required information, delete the brackets and change the font to black.
4. In instances where two clauses are separated by the word "or" agencies are required to use the language that is applicable to the particular contract and to delete the irrelevant clause.
5. In instances where text in red appear in parenthesis as shown below, this constitutes instructions in the template and these instructions or the entire clause should be deleted by the user agency based on the applicable circumstances.

(Only insert renewal language in second sentence if the contract has an option to renew)

6. Insert RFP No. in the footer. If not applicable, delete RFP No. from footer.
7. Update all signatories' names and titles, if applicable.
8. If the agreement is between two executive branch departments, use the departments names in place of references to Government.
9. Addendum I may be called Scope of Work or Scope of Services, select one and use that selection consistently throughout MOA.



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MEMORANDUM OF AGREEMENT
[For Agreements over \$1,000,000.00]

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made this ___ day of _____, 20__ 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 [User Agency] (hereinafter referred to as "Government") and [Insert Authority or University Name (i.e. UVI or any State Universities outside of the Territory)] (hereinafter referred to as "___").

Or

THIS MEMORANDUM OF AGREEMENT (“MOA”) is made this _____ day of _____, 20__ in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, Department of [Insert Department Name] and Virgin Islands Department of [Insert Department Name]/ Entity Name, each a “Party” or collectively “Parties,” through the Department of Property and Procurement. (use this option if the agreement is between GVI entities)

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to [Insert summary of scope of services], which duties and responsibilities are more particularly described in Addendum I (Scope of Services) attached hereto; and

WHEREAS, [insert entity name] was selected in accordance with 31 V.I.C. § 239(a)(8) [or other applicable exemption] (pick the appropriate exemption do not leave “or other applicable exemption” in the text); and

WHEREAS, [insert entity name] 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

[Insert entity’s name] will provide the services described in Addendum I (Scope of Services) attached hereto and made a part of this MOA.

2. TERM

This MOA shall be effective upon the date of execution of this MOA by the Governor of the U.S. Virgin Islands and shall terminate [insert number of years (or days for MOAs less than one year) in words and numerals] thereafter. The Government in its sole discretion, shall have the option to



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renew this MOA for **one (1) additional period of one (1) year** subject to the same terms noted herein, by providing **[insert entity name]** with sixty (60) days written notice of the Government’s election to renew. **(Only insert renewal language in second sentence if the MOA has an option to renew)**

Or

The term of this MOA shall be from **October 1, 2022** to **September 30, 2023**. Upon the date of execution of this MOA by the Governor of the U.S. Virgin Islands, this MOA shall become effective for the Term set out herein. The Government in its sole discretion, shall have the option to renew this MOA for a period of one additional year subject to the same terms noted herein, by providing **[insert entity name]** with **[sixty (60)]** days written notice of the Government’s election to renew. **(Only insert renewal language in second sentence if the MOA has an option to renew)**

3. COMPENSATION

[Insert Entity’s name], in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay **[insert entity name]** a sum not to exceed **[insert value of MOA in words] [(\$insert value of MOA in numerals)]** 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 MOA, however, said costs and expenses shall not exceed N/A (\$ N/A).

5. RECORDS

[Insert Entity Name] when applicable, will present documented precise records of time and/or money expended under this MOA.

6. PROFESSIONAL STANDARDS

[Insert Entity’s Name] 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



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materials shall not be used by **[Insert Entity's Name]** 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 **[insert Entity's Name]** 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 **[insert entity's name]** of whatsoever nature, including but not limited to unemployment insurance and social security taxes for **[insert entity name]**, its servants, agents or independent contractors. **(do not insert this if the MOA is between two Executive branch departments)**

9. ASSIGNMENT

[Insert Entity's Name] shall not subcontract or assign any part of the services under this MOA without the prior written consent of the Government.

10. INDEMNIFICATION

[Insert Entity's Name] 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 **[insert Entity's Name]** under this MOA and arising from any cause, except the sole negligence of Government. **(Do not insert if the MOA is between two Executive branch departments, if the other party is a Federal agency, or independent instrumentality of the GVI, begin sentence with "To the extent permitted by law")**

11. INDEPENDENT CONTRACTOR

[Insert Entity Name] 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,



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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 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 [insert Entity's Name], 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 [insert Entity's Name] 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 [insert Entity's Name] 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 MOA shall be subject to the availability and appropriation of funds and to the approval of the Governor of the U.S. Virgin Islands.

17. TERMINATION

Either party will have the right to terminate this MOA with or without cause on [insert number of days in words] [(insert number of days in numerals)] 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 [insert number of days in words] [(insert number of days in numerals)] days written notice to the [insert entity's name]. This partial termination shall be effected by delivering to the [insert entity's name] 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 [insert entity's



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name] shall be entitled to receive payment for services provided to the date of termination, including payment for the period of the **[insert number of days in words] [(insert number of days in numerals)]** 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 MOA on account of race, creed, color, sex, religion, disability or national origin.

20. CONFLICT OF INTEREST

[insert Entity’s Name] 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

[Name & Title] [User Agency]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]

[ENTITY NAME]

[Name & Title]
[Name of Company/Entity]
[Physical Address]
[Mailing Address]
[City, State, Zip Code]



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22. LICENSURE

[Insert Entity's Name] 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.

23. OTHER PROVISIONS

Addenda I and II attached hereto are a part of this MOA and are incorporated herein by reference. (Please make sure all additional addenda are listed in this section that are made a part of this MOA)

24. DEBARMENT CERTIFICATION

By execution of this MOA, the [insert Entity's Name] 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. [Insert Entity's Name] 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 [insert Entity's Name] or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the [insert Entity's Name] or subcontractor agrees that it shall not be entitled to payment for any work performed under this MOA or any subcontract and that the [insert Entity's Name] or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. (Only insert if MOA involves federal funds)

25. FALSE CLAIMS

[Insert Entity's Name] 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. [Insert Entity's Name] acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

26. NOTICE OF FEDERAL FUNDING

[Insert Entity's Name] acknowledges that this MOA is funded, in whole or in part, by federal funds. [Insert Entity's Name] warrants that it shall not, with respect to this MOA, make or present any claim knowing such claim to be false, fictitious, or fraudulent. [Insert Entity's Name] acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence. (Only insert if MOA involves federal funds)



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27. INSURANCE

[if MOA is being entered into pursuant to an RFP, utilize the insurance provisions from the RFP – do not insert is the MOA is between two Executive branch departments or with a Federal Agency.

[Insert Entity Name] shall maintain the following insurance coverages during the term of this MOA

- (a) **COMMERCIAL GENERAL LIABILITY:** Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement. The commercial general liability insurance shall have a minimum limit of not less than **one million dollars (\$1,000,000.00)** for anyone per occurrence for death or personal injury and **one million dollars (\$1,000,000.00)** for any one occurrence for property damage. (Insurance limits may be reduced subject to DPP’s approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of \$1,000,000.00 will require additional coverage subject to DPP’s approval).
- (b) **PROFESSIONAL LIABILITY:** Professional liability insurance, which covers the services being performed under this MOA, with policy limits of no less than **one million dollars (\$1,000,000.00)** per any one occurrence. The Government shall be listed thereon as a certificate holder. (Insurance limits may be reduced subject to DPP’s approval, however, insurance limits cannot be less than the total compensation value of the contract. Contracts valued in excess of \$1,000,000.00 will require additional coverage subject to DPP’s approval).
- (c) **WORKERS’ COMPENSATION:** [Insert Entity Name] shall supply current coverage under the Government Insurance Fund or other form of coverage.

28. FACSIMILE, ELECTRONIC & DIGITAL SIGNATURES

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

The Parties have hereunto set their hands on the day and year as set forth below.

GOVERNMENT OF THE VIRGIN ISLANDS

[NAME] [TITLE]
[USER AGENCY]

Date: _____

Anthony D. Thomas
Commissioner, Department of Property and Procurement

Date: _____



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[Insert Entity Name]

[NAME] [TITLE]
[NAME OF COMPANY]

Date: _____

APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE BY: _____ Date: _____
Assistant Attorney General

APPROVED:

Honorable Albert Bryan Jr.
GOVERNOR OF THE U.S. VIRGIN ISLANDS

Date: _____

PURCHASE ORDER NO. _____