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## MEMORANDUM OF AGREEMENT

**THIS MEMORANDUM OF AGREEMENT** (“MOA”) is made this 8th day of September, 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 Education** on 1834 Kongens Gade, St. Thomas, U.S. Virgin Islands 00802 (hereinafter referred to as "Government") and **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 referred to as “the University”) on behalf of the School of Education.

### 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**, 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**, VIDE recognized the critical need to improve the overall performance of Virgin Islands’ public-school teachers, paraprofessionals, administrators, and other employees operating in service support roles by providing more academic preparations and continuous professional development; and

**WHEREAS**, the St. Thomas/St. John School District (“District”) is need of the services of the University to provide professional development courses leading towards a certification in teaching for approximately twenty (20) teachers to acquire pedagogical knowledge, skill, and disposition required to provide academic instruction to secondary public schools students; and

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

**WHEREAS**, the Government is authorized to enter into this agreement pursuant to 17 V.I.C. §467(a)(1), which provides for cooperation by the Government; and

**WHEREAS**, the University represents that it is willing to and capable of providing such services; and

**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

General Contract No. G078DOET21



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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 on August 15, 2021, upon execution of this MOA by the Commissioner of the Department of Property and Procurement and shall terminate on December 31, 2022. 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 the University with sixty (60) days written notice of the Government’s election to renew.

**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 **Ninety-Seven Thousand, One Hundred Sixty Dollars and Zero Cents (\$97,160.00)** 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-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.



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## **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 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



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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 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 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 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.

#### **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**



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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 U.S. Virgin Islands 00802

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

Mindy Solivan, Director Office of Sponsored Programs  
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.

## 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



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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 Government of the Virgin Islands for any progress payments heretofore made.

#### **24. 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.

#### **25. 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.

#### **26. FORCE MAJEURE**

Neither Party shall be liable to the other for any delays or failure to perform under this Contract, as a result of conditions reasonably beyond the Party's control including but not limited to war, terrorist acts, riot, strikes, fire, earthquakes, hurricanes, floods, or any act of God.

#### **27. SEVERABILITY**

If any of the provisions of this contract are determined to be invalid, such invalidity shall not affect or impair the validity of the other provisions, which shall be considered severable and shall remain in full force and effect.

#### **28. 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 hereunto set their hands on the day and year first above written.

WITNESSES

[Signature]

GOVERNMENT OF THE VIRGIN ISLANDS

Racquel Berry Benjamin 8/13/2021  
Racquel Berry Benjamin, Commissioner Date  
Department of Education

[Signature]

Anthony D. Thomas 9/8/2021  
Anthony D. Thomas, Commissioner Date  
Department of Property and Procurement

Karen Brown

UNIVERSITY OF THE VIRGIN ISLANDS

Mindy Solivan 8/11/2021  
Mindy Solivan, Director Date  
Office of Sponsored Programs

DEPARTMENT OF JUSTICE

Approved for Legal Sufficiency

Carol E. McDougal 9/7/2021  
Assistant Attorney General Date