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**MEMORANDUM OF UNDERSTANDING BETWEEN
THE VIRGIN ISLANDS DEPARTMENT OF HEALTH
&
NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND
PREVENTION, INC.
THROUGH
THE VIRGIN ISLANDS DEPARTMENT OF PROPERTY AND PROCUREMENT**

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made this 13th day of August 2022, in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands ("Government"), Department of Health, ("Department" or "DOH") and National Foundation for the Centers for Disease Control and Prevention, Inc. ("CDC Foundation"), each a "Party" or collectively "Parties," through the Department of Property and Procurement.

WITNESSETH:

WHEREAS, the Virgin Islands Department of Health is responsible for the functions as both the state regulatory agency and the territorial public health agency for the U.S. Virgin Islands pursuant to Title(s) 3 and 19, Section(s) 19 and 1-8 respectively, of the Virgin Islands Code due to the COVID-19 Pandemic; and

WHEREAS, the National Foundation for the Centers for Disease Control and Prevention, Inc., is an independent nonprofit and the sole entity created by Congress to mobilize philanthropic and private-sector resources to support the Centers for Disease Control and Prevention's critical health protection work; and

WHEREAS, the Parties have a common interest in supporting and strengthening the public health infrastructure through a targeted workforce staffing initiative; and

WHEREAS, the Parties desire to combine efforts in ensuring public health staff are in place to support the COVID-19 response and public health infrastructure by entering into this MOU.

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. TERM AND EFFECTIVE DATE

This MOU shall be effective as of June 1, 2022, upon the date of execution of this MOU by the Commissioner of the Department of Property and Procurement and shall terminate on October 15, 2022, thereafter. The Government in its sole discretion, shall have the option to renew this MOU for a period of three (3) additional periods of four (4) months each subject to the same terms noted herein, by providing CDC Foundation with thirty (30) days written notice of the Government's election to renew.



2. COSTS

There shall be no exchange of funds between the Parties for the performance of tasks under this MOU. Each Party shall bear all costs associated with the fulfillment of its responsibilities under this MOU.

3. RESPONSIBILITIES / TASKS

3.1 Department of Health shall be responsible for:

- a. Providing access to Department facilities and resources to support the Project; and as may be required or necessary, provide CDC Foundation employees who may be required to report to Department's worksite with the following access to facilities: on-site workspace, printer access, copy machine access, meeting room access, kitchen/breakroom access, clearance to enter the Central Office, and parking.
- b. Where the CDC Foundation staff is receiving a Department issued laptop, the Department will ensure access to computer applications and/or databases to accomplish their duties consistent with this Project.
- c. Communicating immediately to CDC Foundation staff's supervisor regarding any all issues with performance and/or conduct requiring managerial oversight or intervention. CDC Foundation supervisor will address all reported issues, in order to improve/rectify the issues.
- d. Providing regular and ongoing technical guidance and training necessary to carry out their duties related to the support of Department operations; training must also include safety training regarding use of Department's office.
- e. Neither requesting, nor allowing CDC Foundation staff to perform work not otherwise incorporated within their respective job titles and descriptions. CDC Foundation staff should only work within the scope of their job descriptions. Any modifications to CDC Foundation staff duties or job descriptions require written approval by the CDC Foundation.
- f. Neither requesting, nor allowing CDC Foundation staff to perform unallowable duties as outlined in the Notice of Award, Uniform Guidance, and all governing federal rules and regulations, including performing duties related to fundraising, lobbying, research, and clinical work.
- g. Ensuring the safety of CDC Foundation employees, including requiring and utilizing safe infection prevention control practices, such as proper personal protective equipment, as set forth by the CDC; and inform the CDC Foundation of CDC Foundation employees that fall ill.



- h. Comply with existing and/or future directives and guidance from the Department of Health and Human Services (HHS) Secretary regarding control of the spread of COVID-19; in consultation and coordination with HHS, provide, commensurate with the condition of the individual, COVID-19 patient care regardless of the individual's home jurisdiction and/or appropriate public health measures (e.g. social distancing, home isolations); and assist the United States Government in the implementation and enforcement of federal orders related to quarantine and isolation.
- i. Notifying the CDC Foundation if concerns arise regarding the CDC Foundation employees' ability to complete designated Project assignments.
- j. Working collaboratively with CDC Foundation staff to create and foster a professional, respectful, and productive work environment.

3.2 CDC Foundation shall be responsible for:

- a. Temporarily assigning employee(s) to the work: from the Department office or other appropriate location, or remotely. The CDC Foundation employees will comply with the policies and procedures of the CDC Foundation.
- b. Providing CDC Foundation staff assigned to this Project with laptops with Microsoft Office software, as needed based on functions of their position as outlined in their job descriptions. CDC Foundation will be responsible for the return of these laptops, and all other equipment supplied by the CDC Foundation, in good working order, back to the CDC Foundation at the termination of this Agreement.
- c. Providing employees human resources support and training materials for successful onboarding including but not limited to information regarding benefits, instructions for the completion of timesheets and requests for leave.
- d. Providing administrative and managerial oversight of CDC Foundation staff, as well as overseeing related administrative documents.
- e. Ensuring that CDC Foundation staff will attend and complete Department's trainings necessary to carry out their duties contained within this Agreement.
- f. Working collaboratively with colleagues in the Department office to create and foster a professional, respectful, and productive work environment.
- g. The CDC Foundation staff assigned to the Department is at all times considered an employee of the CDC Foundation with all the legal rights, responsibilities and obligations that apply.



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- h. **Positions/Staff.** CDC Foundation shall provide to Department one or more CDC Foundation employees, as requested by Department from time to time, and as may be agreed to in writing by CDC Foundation, in its sole discretion. CDC Foundation employees will serve in positions and support activities focused on public health, vaccination, and administrative systems and processes. CDC Foundation employees are not permitted to perform clinically related activities.
- i. **Backfilled Positions.** In the event that a CDC Foundation employee ceases to be employed by CDC Foundation or is no longer available for assignment to the Department, the CDC Foundation, may in its sole discretion, agree to backfill the respective position.
- j. **Approvals.** The CDC Foundation's approval for the items set forth in Sections 3.2.h and 3.2.i must be obtained in writing; to increase, decrease, or backfill the CDC Foundation staff or positions assigned to the Department.
- k. **Reporting.** Department will provide the CDC Foundation with periodic verbal progress reports during regularly scheduled and agreed upon meetings between CDC Foundation and Department staff. A Final evaluative, narrative report detailing the impact of having CDC Foundation employees on staff, how the CC Foundation employees supported the COVID-19 response, and bolstered the public health workforce in the Department. The final report will be due upon the completion of the project, and the Department will be given at least 30 days' notice to submit the final report.

4. RECORDKEEPING, AUDITS & INSPECTIONS

- 4.1 Each Party shall create and maintain adequate records to document all matters covered by this MOU. All such records shall be maintained for seven (7) years or other longer period as may be required by law after termination, cancellation, or expiration of the MOU. Each Party must make records available for inspection and audit at any time, with reasonable notice. If any litigation, claim or audit has begun but is not completed at the end of the seven-year period, or if audit findings have not been resolved at the end of the seven-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken. The parties shall allow for inspection of the facilities and locations where activities under this MOU are to be performed on reasonable notice. Unjustified failure to produce any records required under this paragraph may result in immediate termination of this MOU.
- 4.2 The parties must dispose of records containing each other's Confidential information in a secure manner such as shredding or incineration once the required retention period has ended. Confidential information means information known or maintained in any form, whether recorded or not, consisting of protected health information, other health information, personal information, personal identifying information, confidential business



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information, or any other information required by law to be treated as confidential, designated as confidential by the other party.

5. CONFIDENTIALITY

- 5.1 The CDC Foundation will comply with all confidentiality obligations under federal and state laws and Department policies and requirements including but not limited to the Federal Educational Rights and Privacy Act, 20 U.S.C. §1232g, and the Health Insurance Portability and Accountability Act (HIPAA), Public Law 104-92, as amended, and regulations (45 CFR Parts 160 and 164), as applicable. Confidential information means information known or maintained in any form, whether recorded or not, consisting of protected health information, other health information, personal information, personal identifying information, confidential business information, and any other information required by law to be treated as confidential, designated as confidential by Department, or known or believed by the CDC Foundation or the CDC Foundation's employee or agent to be claimed as confidential or entitled to confidential treatment.
- 5.2 The CDC Foundation will not: 1) access, view, use, or disclose confidential information without written authorization from Department; 2) discuss confidential information obtained in the course of its relationship with Department with any other person, or in any location outside of its area of responsibility in Department; or 3) make any unauthorized copy of confidential information, or remove or transfer this information to any unauthorized location or media.
- 5.3 The CDC Foundation will direct any request it receives for confidential information obtained through performance of services under this MOU, including a subpoena, litigation discovery request, court order, or Freedom of Information Act request, to the Department Contracts Manager and Department Office of General Counsel as soon as possible, and in every case within one business day of receipt. If the CDC Foundation discloses confidential information pursuant to a properly completed authorization or legal process, order or requirement, the CDC Foundation must document the disclosure and make the documentation and authorization available for Department inspection and audit.
- 5.4 The CDC Foundation must immediately notify the Commissioner of Health and/or the Department's Designated Representatives of any unauthorized use or disclosure of confidential information received under this MOU as identified in Section 14 and 25 respectively.
- The CDC Foundation will promptly notify Department of any suspected or actual breach of security of an individual's personal identifying information under applicable law.
- 5.5 The CDC Foundation's obligations under this provision and any other agreements concerning confidentiality shall survive termination, cancellation, or expiration of the MOU.



6. DRUG FREE WORKPLACE

By signing this MOU, the CDC Foundation certifies that it will comply with all applicable provisions of The Drug-free Workplace Act of 1988, 48 CFR § 52.223-6 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707)

7. LICENSES

During the term of this MOU, each party shall maintain its respective federal and state licenses, certifications, and accreditations required for the provision of services herein. The CDC Foundation will immediately notify the Department of Health if a board, association, or other licensing authority takes any action to revoke or suspend the license, certification, or accreditation of CDC Foundation or CDC Foundation's employees or agents providing or performing services under this MOU.

8. FINANCIAL RESPONSIBILITY

Each party shall bear and be responsible solely for its own costs and expenses necessary to comply with this MOU.

9. COMPLIANCE WITH LAWS

CDC Foundation shall comply with all applicable laws and regulations in the performance of this MOU.

10. SEVERABILITY

The invalidity or unenforceability of any provision of this MOU shall not affect the validity or enforceability of any other provision, which shall remain in full force and effect.

11. NON-SUPPLANTING

The Department certifies that federal funds will not be used to supplant state, tribal, local, or other non-federal funds that would, in the absence of such federal aid, be made available for any such activities under this MOU.

12. PUBLICITY

The CDC Foundation and the Department shall be entitled to review and approve the text of any proposed publicity relating to the Project or referencing the Parties, prior to its release. Neither Party shall use the name, logo, likeness, trademarks, image or other intellectual property of the other Party, CDC, or HHS for any advertising, marketing, endorsement, or any other purposes without the expressed, written consent of an authorized representative of the Party.

13. ANTI-TERRORISM STATEMENT

MOU No. G071DOHT22



The Department hereby certifies that it does not advocate, support, assist or engage in, and has not advocated, supported, assisted or engaged in, any illegal or terrorist activity. The Department further certifies that it does not employ, support, assist or otherwise associate with any entities, organizations or individuals that the Department knows, or has reason to know, support terrorism, or that appear on any official terrorist lists published by the Department of the Treasury Office of Foreign Assets Control Specially Designated Nationals List (OFAC SDN).

14. DESIGNATED REPRESENTATIVE

Each Party shall designate a representative to oversee its responsibilities under this MOU.

Department of Health designates:

Dr. Esther M. Ellis
Territorial Epidemiologist
Charles Harwood Complex
3500 Estate Richmond
Christiansted, USVI 00820

Joan Jean-Baptiste
Deputy Commissioner
Human Resources and Labor Relations
Charles Harwood Complex
3500 Estate Richmond
Christiansted, USVI 00820

CDC Foundation designates:

Kathy Cahill
Vice President of Systems Integration
600 Peachtree Street NE, Suite 1000
Atlanta, GA 30308

15. LIABILITY OF OTHERS

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

16. ASSIGNMENT

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Neither Party shall subcontract or assign any part of the services or responsibilities under this MOU.

17. INDEMNIFICATION

To the extent permitted by law, CDC Foundation 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 CDC Foundation under this MOU and arising from any cause, except the sole negligence of Government.

18. GOVERNING LAW

This MOU shall be governed by the laws of the United States Virgin Islands and jurisdiction shall remain in the United States Virgin Islands.

19. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term condition or provision of this MOU 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 MOU, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writing or writings.

20. ENTIRE AGREEMENT

This MOU constitutes the entire agreement of the parties relating to the subject matter addressed in this agreement. This MOU supersedes all prior communications, MOUs, or agreements between the parties with respect to the subject matter addressed in this Agreement, whether written or oral.

21. CONDITION PRECEDENT

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

22. TERMINATION

- 22.1 Either party will have the right to terminate this MOU with or without cause on thirty (30) days written notice to the other party specifying the date of termination.



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22.2 Either party may terminate this MOU for cause, default, or negligence at any time, without thirty days advance written notice. The Party initiating the termination may, at its option, allow the other party a reasonable time to cure the default before termination.

22.3 The CDC Foundation may immediately terminate this MOU in the event payment from the CDC Foundation's funding source ceases.

23. 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 MOU on account of race, creed, color, sex, religion, disability or national origin.

24. CONFLICT OF INTEREST

Both Parties covenant 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 MOU.

25. NOTICE

Any notice required to be given by the Terms of this MOU 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
Department of Property and Procurement
8201 Sub Base, Suite 4
St. Thomas Virgin Islands 00802

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

Kathy Cahill
Vice President of Systems Integration
600 Peachtree Street NE, Suite 1000
Atlanta, GA 30308



26. OTHER PROVISIONS

Attachment A attached hereto is a part of this Contract and are incorporated herein by reference.

27. LICENSURE

The Contractor 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.

28. INSURANCE

CDC Foundation shall maintain the following insurance coverages during the term of this MOU.

- a. **Commercial General Liability.** Commercial general liability insurance, in a form acceptable to the Government, on a "per occurrence" basis with a minimum limit of not less than one million dollars (\$1,000,000.00) for any one person per occurrence for death or personal injury and one million dollars (\$1,000,000.00) for any one occurrence for property damage. Insurance policy(ies) shall name the Government of the Virgin Islands as the certificate holder and additional insured via an endorsement.
- b. **Professional Liability.** Professional liability insurance, in a form acceptable to the Government, which covers the services being performed under this Contract, with policy limits of not less than one million dollars (\$1,000,000.00) per claim. The Government shall be listed thereon as a certificate holder.
- c. **Workers' Compensation.** Contractor shall supply current coverage under the Government Insurance Fund or other form of coverage.
- d. **Automobile Liability,** including No-Fault coverage, with limits of liability not less than \$1,000,000.00 per occurrence with the Government as additional named insured. Coverage shall include all non-owned vehicles and, all hired vehicles.

29. FASCIMILE, ELECTRONIC & DIGITAL SIGNATURES

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

MOU No. G071DOHT22

Initials: 



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

WITNESSES**GOVERNMENT OF THE VIRGIN ISLANDS**

Derese A Dunlop-Harley

Justa E. Encarnacion
Justa E. Encarnacion
Commissioner
Department of Health

7/28/2022

Date

Angelina A. Francis

Anthony D. Thomas
Anthony D. Thomas
Commissioner
Department of Property and Procurement

8/13/2022

Date

NATIONAL FOUNDATION FOR THE CENTERS FOR DISEASE CONTROL AND PREVENTION, INC.

DocuSigned by:
Courtney Bartels
526DBE749467413...

DocuSigned by:
Monique S. Patrick
C2FAB2D997AC4F1...
Monique Patrick
Chief Operations Officer
CDC Foundation

7/27/2022 | 11:15:59 AM EDT

Date

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY:

Carol E. McDougal Date 8/12/2022
Assistant Attorney General

MOU No. G071DOHT22