

**MASTER CONTRACT  
DGS-131031-DIV  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
DIVARIS REAL ESTATE, INC.**

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**MASTER CONTRACT  
DGS-131031-DIV  
BETWEEN  
COMMONWEALTH OF VIRGINIA, DEPARTMENT OF GENERAL SERVICES  
AND  
DIVARIS REAL ESTATE, INC.**

**1. SCOPE OF AGREEMENT**

This is a master contract (the "Contract" or "Agreement") between the Commonwealth of Virginia, Department of General Services ("Commonwealth" or "Department of General Services" or "DGS" or "DRES") and Divaris Real Estate, Inc. (the "Contractor" or "Divaris"), TIN # 54-1218421, a Virginia corporation and DMBE-certified small business, having its principal place of business at One Columbus Center, Suite 700, Virginia Beach, Virginia 23462. The Contract is for the purpose of acquiring real estate brokerage, transaction management and strategic real estate planning services ("Services") to be provided to the DGS Division of Real Estate Services ("DRES"), 1100 Bank Street, Richmond, Virginia pursuant to the Commonwealth's Request For Proposal #NCH-2013-0322, dated March 22, 2013 (the "RFP") and the Contractor's proposal, dated May 6, 2013 and Contractor's supplemental submission dated August 27, 2013 in response thereto.

It is intended and agreed that Contract Services shall be for the use by DRES for all real property to be purchased, sold, leased, or otherwise conveyed by the Commonwealth in accordance with and pursuant to Virginia Code § 2.2-1149, et. seq. and consistent with the DRES mission to manage the commonwealth's real estate holdings pursuant to the Governor's Executive Order 75 (2004).

Notwithstanding the above, Services may be made available for use by other Commonwealth and local government entities, institutions of higher education or other public bodies, as defined in §2.2-4301 of the Code of Virginia and, with DRES, collectively referred to in the aggregate as "Authorized Users;" however, all Authorized Users must receive DRES approval prior to obtaining the Services described herein.

**2. INTERPRETATION OF AGREEMENT**

As used in this Agreement, "product" and "deliverables" shall include all related materials and documentation developed and provided in the performance of Contract Services, whether in machine-readable or printed form, and produced or provided pursuant to this Contract, or any Order resulting from this Contract.

Headings are for reference purposes only and shall not be considered in construing this Agreement.

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) this document, including all attachments hereto; (2) all executed orders, referencing this Contract DGS-131031-DIV; (3) the RFP NCH-2013-0322; and (4) the Contractor's proposal dated May 6, 2013 submitted in response to the RFP and Contractor's supplemental submission dated August 27, 2013. The foregoing documents represent the complete and final Agreement of the parties with respect to the subject matter of this Agreement.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

### **3. VENDORS MANUAL**

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at [www.eva.virginia.gov](http://www.eva.virginia.gov) under "Vendors Manual" on the vendors tab.

### **4. APPLICABLE LAWS AND COURTS**

This solicitation and any resulting contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth. The agency and the contractor are encouraged to resolve any issues in controversy arising from the award of the contract or any contractual dispute using Alternative Dispute Resolution (ADR) procedures (*Code of Virginia*, § 2.2-4366). ADR procedures are described in Chapter 9 of the *Vendors Manual*. The contractor shall comply with all applicable federal, state and local laws, rules and regulations.

### **5. ANTI-DISCRIMINATION**

Contractor certifies to the Commonwealth that it will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the *Virginia Public Procurement Act (VPPA)*. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (*Code of Virginia*, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in A. and B. below apply:

A. During the performance of this contract, the contractor agrees as follows:

- 1). The contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2). The contractor, in all solicitations or advertisements for employees placed by or on behalf of the contractor, will state that such contractor is an equal opportunity employer.
- 3). Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting these requirements.

B. The contractor will include the provisions of A. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

## **6. ETHICS IN PUBLIC CONTRACTING**

Contractors certifies that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other Offeror, supplier, manufacturer or subcontractor in connection with their proposal and this contract, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

## **7. IMMIGRATION REFORM AND CONTROL ACT OF 1986**

By entering into a written contract with the Commonwealth of Virginia, the Contractor certifies that the Contractor does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

## **8. DEBARMENT STATUS**

Contractor certifies that they are not currently debarred by the Commonwealth of Virginia from submitting bids, proposals or being awarded contracts for the type of goods and/or services covered by this contract, nor are they an agent of any person or entity that is currently so debarred.

## **9. ANTITRUST**

By entering into a contract, the contractor conveys, sells, assigns, and transfers to the Commonwealth of Virginia all rights, title and interest in and to all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth of Virginia under said contract.

## **10. PAYMENT:**

### **A. To Prime Contractor:**

- 1) Invoices for items ordered, delivered and accepted shall be submitted by the contractor directly to the payment address shown on the purchase order/contract. All invoices shall show the state contract number and/or purchase order number; social security number (for individual contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- 2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- 3) All goods or services provided under this contract or purchase order, that are to be paid for with public funds, shall be billed by the contractor at the contract price, regardless of which public agency is being billed.
- 4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 5) Unreasonable Charges. Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are

placed. In such cases, contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges which appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges which are not in dispute (*Code of Virginia, § 2.2-4363*).

**B. To Subcontractors:**

- 1) A contractor awarded a contract under this solicitation is hereby obligated:
  - (a) To pay the subcontractor(s) within seven (7) days of the contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the contract; or
  - (b) To notify the agency and the subcontractor(s), in writing, of the contractor's intention to withhold payment and the reason.
- 2) The contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the contract) on all amounts owed by the contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (b) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier contractor performing under the primary contract. A contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

C. Each prime contractor who wins an award in which provision of a SWAM procurement plan is a condition to the award, shall deliver to the contracting agency or institution, on or before request for final payment, evidence and certification of compliance (subject only to insubstantial shortfalls and to shortfalls arising from subcontractor default) with the SWAM procurement plan. Final payment under the contract in question may be withheld until such certification is delivered and, if necessary, confirmed by the agency or institution, or other appropriate penalties may be assessed in lieu of withholding such payment.

D. The Commonwealth of Virginia encourages contractors and subcontractors to accept electronic and credit card payments.

**11. PRECEDENCE OF TERMS**

The following General Terms and Conditions *VENDORS MANUAL*, APPLICABLE LAWS AND COURTS, ANTI-DISCRIMINATION, ETHICS IN PUBLIC CONTRACTING, IMMIGRATION REFORM AND CONTROL ACT OF 1986, DEBARMENT STATUS, ANTITRUST, MANDATORY USE OF STATE FORM AND TERMS AND CONDITIONS, CLARIFICATION OF TERMS, PAYMENT shall apply in all instances. In the event there is a conflict between any of the other General Terms and Conditions and any Special Terms and Conditions in this solicitation, the Special Terms and Conditions shall apply.

## **12. QUALIFICATIONS OF OFFERORS**

The Commonwealth may make such reasonable investigations as deemed proper and necessary to determine the ability of the Contractor to perform the services/furnish the goods and the Contractor shall furnish to the Commonwealth all such information and data for this purpose as may be requested. The Commonwealth reserves the right to inspect Contractor's physical facilities during the life of the contract to satisfy questions regarding the Contractor's capabilities. The Commonwealth further reserves the right to cancel the contract if the evidence submitted by, or investigations of, such Contractor fails to satisfy the Commonwealth that such Contractor is properly qualified to carry out the obligations of the contract and to provide the services and/or furnish the goods contemplated therein.

## **13. TESTING AND INSPECTION**

The Commonwealth reserves the right to conduct any test/inspection it may deem advisable to assure goods and services conform to the specifications.

## **14. ASSIGNMENT OF CONTRACT**

A contract shall not be assignable by the contractor in whole or in part without the written consent of the Commonwealth.

## **15. CHANGES TO THE CONTRACT**

Changes can be made to the contract in any of the following ways:

1. The parties may agree in writing to modify the terms, conditions, or scope of the contract. Any additional goods or services to be provided shall be of a sort that is ancillary to the contract goods or services, or within the same broad product or service categories as were included in the contract award. Any increase or decrease in the price of the contract resulting from such modification shall be agreed to by the parties as a part of their written agreement to modify the scope of the contract.
2. The Authorized User may order changes within the general scope of the contract at any time by written notice to the contractor. Changes within the scope of the contract include, but are not limited to, things such as services to be performed, the method of packing or shipment, and the place of delivery or installation. The contractor shall comply with the notice upon receipt, unless the contractor intends to claim an adjustment to compensation, schedule, or other contractual impact that would be caused by complying with such notice, in which case the contractor shall, in writing, promptly notify the Authorized User of the adjustment to be sought, and before proceeding to comply with the notice, shall await the Authorized User's written decision affirming, modifying, or revoking the prior written notice. If the Authorized User decides to issue a notice that requires an adjustment to compensation, the contractor shall be compensated for any additional costs incurred as the result of such order and shall give the Authorized User a credit for any savings. Said compensation shall be determined by one of the following methods:
  - a. By mutual agreement between the parties in writing; or
  - b. By agreeing upon a unit price or using a unit price set forth in the contract, if the work to be done can be expressed in units, and the contractor accounts for the number of units of work performed, subject to the Authorized User's right to audit the contractor's records and/or to determine the correct number of units independently; or
  - c. By ordering the contractor to proceed with the work and keep a record of all costs incurred and savings realized. A markup for overhead and profit may be allowed if provided by the contract. The same markup shall be used for determining a decrease in price as the result of savings realized. The contractor shall present the Authorized User with all vouchers and records of expenses incurred and savings realized. The Authorized User shall

have the right to audit the records of the contractor as it deems necessary to determine costs or savings. Any claim for an adjustment in price under this provision must be asserted by written notice to the Authorized User within thirty (30) days from the date of receipt of the written order from the Authorized User. If the parties fail to agree on an amount of adjustment, the question of an increase or decrease in the contract price or time for performance shall be resolved in accordance with the procedures for resolving disputes provided by the Disputes Clause of this contract or, if there is none, in accordance with the disputes provisions of the Commonwealth of Virginia *Vendors Manual*. Neither the existence of a claim nor a dispute resolution process, litigation or any other provision of this contract shall excuse the contractor from promptly complying with the changes ordered by the Authorized User or with the performance of the contract generally.

## **16. DEFAULT**

In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Commonwealth, after due oral or written notice, may procure them from other sources and hold the contractor responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Commonwealth may have.

## **17. INSURANCE**

Contractor certifies it has the following insurance coverage.. Contractor further certifies that the contractor and any subcontractors will maintain these insurance coverages during the entire term of the contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

### **MINIMUM INSURANCE COVERAGES AND LIMITS REQUIRED FOR THIS CONTRACT:**

- A. Workers' Compensation - Statutory requirements and benefits. Coverage is compulsory for employers of three (3) or more employees, to include the employer. Contractors who fail to notify the Commonwealth of increases in the number of employees that change their workers' compensation requirements under the Code of Virginia during the course of the contract shall be in noncompliance with the contract.
- B. Employer's Liability - \$100,000.
- C. Commercial General Liability - \$1,000,000 per occurrence. Commercial General Liability is to include bodily injury and property damage, personal injury and advertising injury, products and completed operations coverage. The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.
- D. Automobile Liability - \$1,000,000 per occurrence.

**The Commonwealth of Virginia must be named as an additional insured and so endorsed on the policy.**

## **18. ANNOUNCEMENT OF AWARD**

Upon the award or the announcement of the decision to award a contract as a result of this solicitation, the Commonwealth will publicly post such notice on the DGS/DPS eVA VBO ([www.eva.virginia.gov](http://www.eva.virginia.gov)) for a minimum of ten (10) days.

## **19. DRUG-FREE WORKPLACE**

During the performance of this contract, the contractor agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for

employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the contractor that the contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

## **20. NONDISCRIMINATION OF CONTRACTORS**

Contractor shall not be discriminated against in the solicitation or award of this contract because of race, religion, color, sex, national origin, age, disability, faith-based organizational status, any other basis prohibited by state law relating to discrimination in employment or because the Offeror employs ex-offenders unless the state agency, department or institution has made a written determination that employing ex-offenders on the specific contract is not in its best interest. If the award of this contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

## **21. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION**

The eVA Internet electronic procurement solution, website portal [www.eVA.virginia.gov](http://www.eVA.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The eVA portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet procurement solution by completing the free eVA Vendor Registration. Contractor has registered in eVA and agrees to pay the Vendor Transaction Fees specified below..

Vendor transaction fees are determined by the date the original purchase order is issued and the current fees are as follows:

- a. For orders issued July 1, 2011 thru December 31, 2013, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 0.75%, capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 0.75%, capped at \$1,500 per order.
- b. For orders issued January 1, 2014 and after, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

For orders issued prior to July 1, 2011 the vendor transaction fees can be found at [www.eVA.virginia.gov](http://www.eVA.virginia.gov).

The specified vendor transaction fee will be invoiced, by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

## **22. PRICE CURRENCY**

The contract prices are stated in US dollars.

## **23. AUTHORIZATION TO CONDUCT BUSINESS IN THE COMMONWEALTH**

A contractor organized as a stock or nonstock corporation, limited liability company, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 of the Code of Virginia or as otherwise required by law. Any business entity described above that enters into a contract with a public body pursuant to the Virginia Public Procurement Act shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, if so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the contract. A public body may void any contract with a business entity if the business entity fails to remain in compliance with the provisions of this section.

## **24. ADDITION/DELETION OF ITEMS AND SERVICES**

This contract or any duly-authorized orders may be modified in order to add and/or delete items, services, or equipment locations as deemed necessary by the Commonwealth or any Authorized User, which are of like or similar nature. Such modifications may only be made by the representatives who are authorized to do so. No modifications to this contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing,

## **25. BREACH**

The Contractor shall be deemed in breach of this Agreement if the Contractor: fails to comply with any term of this Agreement and fails to cure such noncompliance within ten (10) days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or fails to provide a written response to the Commonwealth's Show Cause Notice within ten (10) days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Products or Services. All costs for de-installation and return of Products shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

## **26. CONTRACTOR/SUBCONTRACTOR LICENSE REQUIREMENT**

By their signature on this contract, Contractor certifies and warrants that their firm, and any individual employees and/or subcontractor(s) is/are properly certified and/or licensed by the appropriate federal, state, or other regulatory authorities to provide all goods/services specified or fulfill the requirements delineated herein.

## **27. CONDITIONS OF PAYMENT**

All Services provided by Contractor pursuant to this Contract shall be performed to the satisfaction of the ordering entity and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. Contractor shall not receive payment for Services found to be unsatisfactory, or performed in violation of federal, state, or local laws, ordinances, rules, or regulations.

## **28. CREDITS**

Any credits due the State or Authorized User under the terms of this Contract may be applied against Contractor's invoices with appropriate information attached to enable validation.

## **29. EXCLUSIVITY OF TERMS AND CONDITIONS**

No employee or agent of the Commonwealth or Authorized User shall be required to sign or execute any additional contract, license or other agreement containing contractual terms and conditions. Notwithstanding the afore-mentioned, any documents signed by persons other than the Director, DGS Procurement or their authorized designee shall have no validity or effect upon the Contract

## **30. NON-APPROPRIATION**

All funds for payment of goods or services ordered under this Contract are subject to the availability of legislative appropriation for this purpose by an Authorized User. In the event of non-appropriation of funds by the Legislature for the items under this contract, the Commonwealth will terminate this Contract, or an Authorized User will terminate their respective order, for those goods or services for which funds have not been appropriated. The Commonwealth or any Authorized User will provide written notice to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, then the Commonwealth or any Authorized User may terminate an order under this Contract for goods or services dependent on such federal funds without further obligation.

Each prime contractor who wins an award valued over \$200,000 shall deliver to the contracting agency or institution on a monthly basis, information on use of subcontractors that are DMBE-certified small businesses. When business has been subcontracted to these firms, the contractor agrees to furnish the purchasing office at a minimum the following information: name of firm, phone number, total dollar amount subcontracted, and type of product or service provided.

Reports are to be emailed by the 5th of each month to: [procurement@dgs.virginia.gov](mailto:procurement@dgs.virginia.gov).

## **31. CONTINUITY OF SERVICES**

The Contractor recognizes that the Services under this Contract are vital to the Commonwealth or any Authorized User, and must be continued without interruption and that, upon Contract expiration, a successor, either the Commonwealth, the Authorized User, or another contractor, may continue them. Therefore, Contractor agrees:

- a. To exercise its best efforts and cooperation to effect an orderly and efficient transition to a successor;
- b. To make all Commonwealth or Authorized User-owned facilities, equipment, and data available to any successor at an appropriate time prior to the expiration of the contract to facilitate transition to successor; and
- c. That the DGS Contracting Officer shall have final authority to resolve disputes related to the transition of Contract Services from the Contractor to any successor.

The Contractor shall, upon written notice from the DGS Contract Officer, furnish phase-in/phase-out services for up to ninety (90) days after this Contract expires and shall negotiate in good faith a plan with the successor to execute the phase-in/phase-out services. This plan shall be subject to the DGS Contract Officer's approval.

The Contractor shall be reimbursed for all reasonable, pre-approved phase-in/phase-out costs (i.e., costs incurred within the agreed period after contract expiration that result from phase-in, phase-out operations)) under this Contract. All phase-in/phase-out work fees must be approved by the DGS

Contract Officer in writing prior to commencement of said work.

### **32. WARRANTY**

Contractor agrees that Services furnished under any award resulting from this solicitation shall be covered by the most favorable commercial warranties the Contractor gives any customer for such services and that the rights and remedies provided therein are in addition to and do not limit those available to the Commonwealth by any other clause of this solicitation.

### **33. CONTRACTOR ACCESS TO COMMONWEALTH LOCATION/S**

The Commonwealth or any Authorized User shall grant to Contractor personnel such access to the Commonwealth or Authorized User location as may be necessary or appropriate for Contractor to perform its obligations under this Agreement, subject to all security issues. For any individual Commonwealth or Authorized User location, the Contractor may be required to undergo additional security procedures that may include but not be limited to; records verification, submission of photos and or fingerprints, etc. The Contractor may at any time, for any Commonwealth or Authorized User location, be required to undertake the execution and completion for each individual employee, the requirement of the submission of additional forms that the Commonwealth would consider reasonable for security measures. These forms may include the individual employee's agreement that all Commonwealth or Authorized User information that is garnered while at the Commonwealth or Authorized User site is confidential and proprietary. Any unauthorized release of proprietary information by the Contractor or Contractor's employees shall constitute a breach of this Agreement.

### **34. TERM**

The initial term contract period will be for three (3) year from the date of contract award. The contract may be renewed at the sole discretion of the Commonwealth in accordance with the provision herein entitled "Renewal of Contract." All orders and related documents shall survive the period of performance stated in this section until such time as all orders (executed prior to the expiration date of the Contract) have been completely performed.

### **35. RENEWAL OF CONTRACT**

This Contract may be renewed at the sole discretion of the Commonwealth, for up to seven (7) additional one (1) year successive periods under the terms and conditions of the original Contract and upon mutual written agreement between the parties. Written notice of the Commonwealth's intention to renew shall be given approximately ninety (90) days prior to the expiration date of each contract period.

### **36. PRICE ADJUSTMENTS**

At its sole discretion, the Commonwealth may permit price adjustments for *Other Services* only at the time of Contract renewal. The price adjustment shall not exceed the lesser of: a) 3% , or; b) the percentage increase/decrease of the United States (US) Department of Labor's (DOL) Bureau of Labor Statistics' (BLS) "Services" category of the Consumer Price Index for All Urban Consumers (CPI-U) section of the Consumer Price Index for the latest twelve (12) months for which statistics are available. (<http://stats.bls.gov/news.release/cpi.t03.htm>)

Contractor shall give not less than thirty (30) days advance notice of any price increase request, with documentation, to the Contracting Officer. The Contracting Officer will review the request and notify the using agencies and Contractor in writing of the effective date of any approved increase. However, the Contractor shall fill all purchase orders received prior to the effective date of the price adjustment at the old contract prices.

**"Across the board" price decreases are subject to implementation at any time and shall be immediately conveyed to the Commonwealth and reflected in subsequent invoices.**

Any such change in price shall be submitted to DGS Procurement in writing in accordance with the above and shall not become effective for sixty (60) days thereafter.

### **37. CANCELLATION OF CONTRACT**

The Commonwealth reserves the right to cancel and terminate any resulting contract(s), in part or in whole, without penalty, upon sixty (60) days written notice to the contractor(s). In the event the initial contract period is for more than twelve (12) months, then the resulting contract(s) may be terminated by either party, without penalty, after the initial twelve (12) months of the contract period upon sixty (60) days written notice to the other party. Any contract cancellation notice shall not relieve the contractor(s) of the obligation to deliver and/or perform on all outstanding orders issued prior to the effective date of cancellation.

### **38. TERMINATION FOR CONVENIENCE**

The Commonwealth may terminate this Contract in whole or in part for convenience at any time by submitting to the Contractor a writing, sixty (60) days prior to the date of Termination. The Commonwealth shall be obligated for all outstanding Orders, according to the Contract, subsequent to this Termination. The Commonwealth shall not be obligated for any other costs in the event of Termination for convenience.

### **39. TERMINATION FOR CONVENIENCE OF INDIVIDUAL ORDER**

Any individual Order placed under this Agreement may be terminated, in whole or in part, by an Authorized User for its convenience, at any time up to sixty (60) days advance written notice to the Contractor. There are no other costs or obligations for termination for convenience.

### **40. CONTRACTOR/SUBCONTRACTOR LICENSE REQUIREMENT**

By my signature on this solicitation, I certify that this firm/individual and subcontractor are properly licensed for providing the services specified.

### **41. CONTRACTUAL RECORDS**

All Contractual books, records and other documents related to matters under this Contract shall be made available by Contractor to the State and its designated agents for a period of five (5) years after final payment for purposes of audit and examination. Contractual records are hereby further defined as this Contract and all delivery/purchase orders, invoices or correspondence directly relating to this Agreement.

### **42. EXTRA CHARGES NOT ALLOWED**

The price shall be for complete delivery or all materials and reports ready for the Commonwealth's use, and shall include all applicable freight, mail, and delivery charges; extra charges will not be allowed.

### **43. USE OF AGREEMENT BY THIRD PARTIES**

In accordance with the Code of Virginia § 2.2-4304, entitled "Cooperative procurement," the intent of this Agreement is to allow for cooperative procurement to the maximum extent possible.

Accordingly, any public body, as defined in § 2.2-4301, entitled "Definitions" of the Virginia Public Procurement Act (VPPA) as amended, and hereinafter referred to as "Authorized Users" may access and use this Agreement through DRES, and if agreeable to Contractor, in accordance with the provisions herein.

Participation in this cooperative procurement by any public body that is not required to use DRES is strictly voluntary.

This is a requirements based, Master Agreement and no modification of the Agreement is required for DRES to issue any order for Services on behalf of any Authorized User.

Authorized Users which are not mandated by Code or regulation to use DRES for their real estate needs hereby agree to share with DRES the commission revenue generated by a transaction. The commission sharing rates are stipulated in Attachment A “*Services and Pricing Schedule*” of the contract.

For “Other Services” as stated in Section B of Attachment A, the Contractor will develop an SOW in conjunction with the Authorized User. The SOW must be approved by DRES.

Authorized Users seeking to use Contract Services are to contact DRES at 804-225-3874 or via email at [DRES-Info@dgs.virginia.gov](mailto:DRES-Info@dgs.virginia.gov)

#### **44. ORDERS**

DGS is the sole entity of the Commonwealth authorized to order Services from this Contract by any of the following methods:

- a. eVA: As applicable, for provision of any non-professional consulting services, an eVA order may be issued by DRES through the Commonwealth’s electronic procurement website portal <http://www.eva.virginia.gov> on the behalf of the Commonwealth or any other Authorized User.
- b. Letter(s) of Representation or Listing Agreement: To initiate and conclude any Services relating to specific real property leasing and brokerage transactions, Contractor will prepare Letter of Representation or Listing Agreement for DRES to approve, which represents and details all specific Commonwealth or Authorized User transaction requirements and provisions relating to any specific transaction, which the Contractor shall comply with, consistent with all contractual provisions herein. (See [Attachment B](#))

Authorized Users seeking Contractor’s Services under this Agreement are to consult with DRES in order to complete any order.

UNDER NO CIRCUMSTANCES SHALL ANY AUTHORIZED USER OR OTHER ENTITY HAVE THE AUTHORITY TO MODIFY THIS AGREEMENT.

CONTRACTOR SHALL NOT ACCEPT OR ACT UPON ANY ORDER RECEIVED FROM AN AUTHORIZED USER UNDER THIS AGREEMENT WITHOUT SPECIFIC WRITTEN APPROVAL FROM DRES. THE CONTRACTOR’S ACCEPTANCE OR ACTION UPON AN ORDER RECEIVED WITHOUT APPROVAL BY DRES SHALL CONSTITUTE BREACH AND/OR DEFAULT AND THE COMMONWEALTH MAY INVOKE ANY PROVISIONS IT DEEMS APPROPRIATE FOR SUCH ACTION/S, THEREAFTER.

#### **45. ORDERING OFFICERS**

DGS’s authorized Ordering Officer’s authority within the Division of Real Estate Services (DRES) shall cover the issuance of written orders for Services provided under this Agreement BY ANY AUTHORIZED USER.

The Ordering Officer’s authority is solely limited to issuing written orders to deliver specific Services available under this Agreement. Under no circumstances shall any Ordering Officer have the authority to modify this Agreement.

DGS appoints the Ordering Officer(s) named below. The Contractor is hereby notified that the Commonwealth will only make payment only against valid Orders executed by an authorized Ordering Officer and confirmed by the Contractor. The Contractor shall be advised in writing by the Director, DGS Procurement or their duly authorized designee of any change in the identity of Ordering Officers.

The Ordering Officer is to be the Director, DRES, or their duly authorized designee, who shall be named in the specific order or Letter issued by DRES.

#### **46. ADDITION/DELETION OF SERVICES**

This Contract may be modified in order to add and/or delete Services as deemed necessary by the Commonwealth, which are of like or similar nature. Such modifications may only be made by the representatives who are authorized to do so, as denoted herein under the section entitled "CHANGES/MODIFICATIONS." No modifications to this Contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

#### **47. CONTRACTUAL DISPUTES**

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether from money or other relief, shall be submitted in writing to the Commonwealth no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Pendency of claims shall not delay payment of amounts agreed due in the final payment. The Commonwealth shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the Commonwealth's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the Commonwealth shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia, or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

The Commonwealth, its officers, agents and employees, including without limitation, the Contracting Officers, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent of the Commonwealth entity purchasing and receiving the Services in question and need not be joined as a party to any dispute that may arise there under.

In the event of any breach by the Commonwealth, the Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall Contractor's remedies include the right to terminate any license or support services hereunder.

For any Order issued on behalf of an Authorized User, the Authorized User is responsible to fully and independently administer any Services provided under the Agreement to include contractual disputes, and invoicing and payments, without direct administration from DGS. Neither the Commonwealth nor DGS shall be held liable for any costs or damages by any other participating Authorized User as a result of any authorization by the Contractor to use the Agreement.

Contractor hereby certifies and warrants that neither the Commonwealth nor DGS are responsible for any acts or omissions of any Authorized User, and shall not be considered in default of this Agreement, no matter the circumstances.

The use of the Agreement does not preclude any participating Authorized User from using other agreements or competitive processes as their needs may require.

#### **48. PRIME CONTRACTOR RESPONSIBILITIES**

The Contractor shall be responsible for completely supervising and directing the work under this Contract and all subcontractors that he may utilize, using his best skill and attention. Subcontractors who perform work under this Contract shall be responsible to the prime contractor. The Contractor agrees that he is as fully responsible for the acts and omissions of his subcontractors and of persons employed by them as he is for the acts and omissions of his own employees.

#### **49. SUBCONTRACTS**

No portion of the work shall be subcontracted without prior written consent of the Commonwealth. In the event that the contractor desires to subcontract some part of the work specified herein, the contractor shall furnish the Commonwealth the names, qualifications and experience of their proposed subcontractors. The contractor shall, however, remain fully liable and responsible for the work to be done by its subcontractor(s) and shall assure compliance with all requirements of the contract.

#### **50. CHANGES/MODIFICATIONS**

This Contract may be modified in accordance with § 2.2-4309 of the *Code of Virginia*. Such modifications may only be made by the representatives authorized to do so denoted below, or their duly authorized designees. No modifications to this Contract shall be effective unless in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

Authorized Representatives:

#### **COMMONWEALTH OF VIRGINIA**

Director, DGS Procurement  
Department of General Services  
Procurement Services Unit  
1100 Bank Street, Suite 724  
Richmond, Virginia 23219-3639  
Email: [procurement@dgs.virginia.gov](mailto:procurement@dgs.virginia.gov)

#### **CONTRACTOR**

Sanford M. Cohen  
Chief Operations Officer  
One Columbus Center, Suite 700  
Virginia Beach, Virginia 23462  
scohen@divaris.com

#### **51. eVA BUSINESS-TO-GOVERNMENT CONTRACTS AND ORDERS**

The solicitation/contract will result in multiple purchase order(s) with the eVA transaction fee specified below assessed for each order.

- a. For orders issued July 1, 2011 thru December 31, 2013, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 0.75%, capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 0.75%, capped at \$1,500 per order.
  
- b. For orders issued January 1, 2014, and after, the Vendor Transaction Fee is:
  - (i) DMBE-certified Small Businesses: 1%, capped at \$500 per order.
  - (ii) Businesses that are not DMBE-certified Small Businesses: 1%, capped at \$1,500 per order.

The specified vendor transaction fee will be invoiced by the Commonwealth of Virginia Department of General Services, approximately 30 days after the corresponding purchase order is issued and payable 30 days after the invoice date. Any adjustments (increases/decreases) will be handled through purchase order changes.

The eVA Internet electronic procurement solution, website portal [www.eva.virginia.gov](http://www.eva.virginia.gov), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following: If this solicitation is for a term contract, failure to provide an electronic catalog (price list) or index page catalog for items awarded will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from [www.eVA.virginia.gov](http://www.eVA.virginia.gov). Contractors should email Catalog or Index Page information [to eVA-catalog-manager@dgs.virginia.gov](mailto:eVA-catalog-manager@dgs.virginia.gov).

## **52. CONFIDENTIALITY**

Contractor assures that information and data obtained as to personal facts and circumstances related to the Commonwealth, Authorized Users, its customers clients, or others will be collected and held confidential, during and following the term of this agreement, and will not be divulged without the Commonwealth, Authorized User's, or their customers, clients, or other's written consent and only in accordance with federal law or the Code of Virginia. Contractors who utilize, access, or store personally identifiable information as part of the performance of a contract are required to safeguard this information and immediately notify the agency of any breach or suspected breach in the security of such information. Contractors shall allow the agency to both participate in the investigation of incidents and exercise control over decisions regarding external reporting. Contractors and their employees working on this project may be required to sign a confidentiality statement.

## **53. STATE CORPORATION COMMISSION IDENTIFICATION NUMBER**

Pursuant to Code of Virginia, §2.2-4311.2 subsection B, an Offeror organized or authorized to transact business in the Commonwealth pursuant to Title 13.1 or Title 50 is required to include in its bid or proposal the identification number issued to it by the State Corporation Commission (SCC). Any Offeror that is not required to be authorized to transact business in the Commonwealth as a foreign business entity under Title 13.1 or Title 50 or as otherwise required by law is required to include in its bid or proposal a statement describing why the Offeror is not required to be so authorized. Indicate the above information on the SCC Form provided. Contractor agrees that the process by which compliance with Titles 13.1 and 50 is checked during the solicitation stage (including without limitation the SCC Form provided) is streamlined and not definitive, and the Commonwealth's use and acceptance of such form, or its acceptance of Contractor's statement describing why the Offeror was not legally required to be authorized to transact business in the Commonwealth, shall not be conclusive of the issue and shall not be relied upon by the Contractor as demonstrating compliance. Complete and submit Attachment C, entitled "[Virginia State Corporation Commission \(SCC\) Form](#)" with response.

## **54. BANKRUPTCY**

If Contractor becomes insolvent, takes any step leading to its cessation as a going concern, fails to pay its debts as they become due, or ceases business operations continuously for longer than fifteen (15) business days, then the Commonwealth may immediately terminate this Contract and an Authorized User may terminate an order, on notice to Contractor, unless Contractor immediately gives the Commonwealth or such Authorized User adequate assurance of the future performance of this Contract or the applicable order. If bankruptcy proceedings are commenced with respect to Contractor, and if this Contract has not otherwise terminated, then the Commonwealth may suspend all further performance of this Contract until Contractor assumes this Contract and provides adequate assurance of performance thereof or rejects this Contract pursuant to Section 365 of the Bankruptcy Code or any similar or successor provision, it being agreed by the Commonwealth and Contractor that this is an executory contract. Any such suspension of further performance by the Commonwealth or Authorized User pending Contractor's assumption or rejection shall not be a breach of this Contract, and shall not

affect the rights of the Commonwealth or any Authorized User to pursue or enforce any of its rights under this Contract or otherwise

**55. E-VERIFY PROGRAM**

Pursuant to Code of Virginia, §2.2-4308.2., any employer with more than an average of 50 employees for the previous 12 months entering into a contract in excess of \$50,000 with any agency of the Commonwealth to perform work or provide services pursuant to such contract shall register and participate in the E-Verify program to verify information and work authorization of its newly hired employees performing work pursuant to such public contract. Any such employer who fails to comply with these provisions shall be debarred from contracting with any agency of the Commonwealth for a period up to one year. Such debarment shall cease upon the employer's registration and participation in the E-Verify program. If requested, the employer shall present a copy of their Maintain Company page from E-Verify to prove that they are enrolled in E-Verify.

**PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE TERMS AND CONDITIONS OF THE CONTRACT.**

**DIVARIS REAL ESTATE, INC.**

BY: [Signature]  
NAME: Shannon M. Cannon  
TITLE: L.O.O.  
DATE: 11.22.13

**COMMONWEALTH OF VIRGINIA,  
DEPARTMENT OF GENERAL SERVICES**

BY: [Signature]  
NAME: K.C. McCallough  
TITLE: Acting Director DGS Recruitment  
DATE: 12/3/2013

**ATTACHMENT A  
TO  
AGREEMENT DGS-131031-DIV  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
DIVARIS REAL ESTATE, INC.**

***SERVICES AND PRICING SCHEDULE***

Attachment "A" is hereby incorporated into and made an integral part of Contract Number DGS-131031-DIV between the Commonwealth of Virginia, Department of General Services, ("Commonwealth" or "State" or "DGS" or "DRES") and Divaris Real Estate, Inc. ("Contractor" or "Divaris").

In the event of any discrepancy between this Attachment "A" and Contract Number DGS-131031-DIV, the provisions of Contract DGS-131031-DIV shall control.

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**1. LISTING OF SERVICES AND PRICING**

Contractor shall provide Services in accordance with all requirements stated in the Commonwealth's RFP #NCH-2013-0322, dated March 22, 2013 Section III, entitled "Statement of Needs," including all General Requirements items; the Contractor's proposal, dated May 6, 2013 and Contractor's supplemental submission dated August 27, 2013, submitted in response thereto, and as amended herein between the parties, for the provision of all real estate brokerage, transaction management and strategic real estate planning services ("Services"), to be managed through DGS, in accordance with the following pricing schedule, or as otherwise stipulated in any modification to this Agreement.

This is a "No Cost" pricing schedule to the Commonwealth for lease and purchase acquisition services, lease and purchase negotiations, strategic real estate planning and ongoing examination of existing leases, property or interests whereby the Contractor will not charge any direct fee to the Commonwealth for such services. For disposition of property, the fees shall be as stated below.

Contractor shall look solely to the landlord/property owner for the payment of lease or purchase transaction commissions. When acting as the Commonwealth's transaction representative, Contractor will share commission payments with the Commonwealth from commissions received from landlords/property owners.

**A. Services and Commission Rate Schedules:**

**1. Acquisitions**

**a. Lease Acquisition – New and Renewal Leases**

At the Commonwealth's request, Contractor will provide lease acquisition services on a commission basis, at a rate to be established at time of engagement as mutually agreed to by the parties pursuant to a Letter of Representation in the form of Sample A of Attachment B and approved by the DRES Director or designee. The commission charged to landlords/property owners shall not be more than a full fair market commission for services rendered by the Contractor relative to the market in which the transaction is to occur and depending on the type

of lease (new or renewal). In the event that the commission rate to Contractor is expected to exceed 4%, or the total commission is expected to exceed \$300,000, the commission must be approved by the DRES Director or designee prior to negotiation of commissions with owner/landlord.

**b. Purchases**

At the Commonwealth's request, Contractor will provide property acquisition services, at a rate to be established at time of engagement as mutually agreed to by the parties pursuant to a Letter of Representation in the form of Sample B of Attachment B and approved by the DRES Director or designee. In the normal course, Contractor shall look solely to the property owner for the payment of the purchase transaction commissions pursuant to any commission split arrangements in the seller's property listing agreement.

In the event of an "investment property" sale whereby the property owner's listing agreement does not provide for any commissions to be paid to the procuring broker, Contractor will be compensated for any such procuring broker services on a commission basis at a rate or fixed dollar amount to be established at time of engagement as mutually agreed to by the parties and approved DRES Director or designee.

The commission will be earned only if a transaction is consummated. Such commission may be paid directly to Contractor by the Commonwealth or paid by the property owner to the Contractor at closing.

**2. Disposition Services**

**a. Space Disposition**

BUY-OUT AND TERMINATION – In the event that Contractor negotiates a buy-out or termination of a remaining lease term, the Commonwealth will pay a fee based on the difference between the value of the remaining lease and the negotiated buy-out price (Buy-Out Savings). The fee will be calculated on the total Buy-Out Savings based on the following Lease Buy-Out Fee schedule:

Minimum fee of \$5,000.00 plus:			
10% of Buy-Out Savings from	\$50,000	to	\$100,000 plus
7% of Buy-Out Savings from	\$100,001	to	\$150,000 plus
4% of Buy-Out Savings from	\$150,001	to	\$400,000 plus
2% of Buy-Out Savings from	\$400,001	to	\$900,000 plus
1% of Buy-Out Savings in excess of	\$900,001		

**b. Subleases**

At the Commonwealth's request, Contractor will provide subleasing services on a commission basis, at a rate to be established at time of engagement as mutually agreed to by the parties pursuant to a Letter of Representation in the form of Sample A of Attachment B and approved by the DRES Director or designee. The commission is based on the rental rate, the term of the lease and quantity of space that is sublet. The Commonwealth will pay the commission only if a transaction is consummated.

**c. Sales and Leases**

At the Commonwealth's request, Contractor will assist with negotiations for the sale or for

lease of properties owned by the Commonwealth and /or an Authorized User. Contractor will be compensated for any such sale or lease on a commission basis at a rate to be established at time of engagement as mutually agreed to by the parties pursuant to a Listing Agreement in the form of Sample C or D of Attachment B and approved by the DRES Director or designee. The commission will be paid to the Contractor by the Commonwealth, and will be earned only if a transaction is consummated.

### 3. Commission Sharing Payment Schedule

The following commission schedule will apply to each real estate for which Contractor represents Commonwealth and/or an Authorized User, regardless of transaction type including but not limited to, lease, purchase, sublease and renewal.

<b>Transaction Commission Amount</b>	<b>Contractor's Share</b>	<b>Commonwealth's Share</b>
<\$50,000	85%	15%
\$50,001-\$100,000	80%	20%
\$100,001-\$250,000	70%	30%
\$250,001-\$1,000,000	60%	40%
\$1,000,001>	50%	50%

The above commissions are payable on a cumulative basis. For example, if a specific transaction generates a total commission of \$80,000 the Contractor's Share would be \$66,500, calculated as \$50,000 times 85% plus \$30,000 (\$80,000-\$50,000) times 80%. The Commonwealth's Share would be \$13,500 (\$80,000 - \$66,500).

Commission sharing payments will be payable to the Commonwealth on a monthly basis no later than the 15th day of the following month for the share of all commission collected by the Contractor during the previous month.

Contractor will invoice landlords/property owners for commissions due Contractor pursuant to Contractor's commission agreement within 15 days of "commission earning event" (i.e. lease execution, occupancy, etc.). Contractor will use best efforts to collect all commissions due from landlords/property owners within 45 days of when commission is due.

**TRANSACTION ACCOUNTING STATEMENT:** Contractor will provide DRES Director or designee a "transaction commission accounting statement" and if not explicitly stated in the lease agreement, Contractor will provide a copy of commission agreement with landlord within 10 days of completion of a transaction. The "transaction commission accounting statement" will detail the total commission calculation, the Commonwealth's anticipated sharing payment and the payment schedule for the commission.

**MONTHLY REPORT OF ALL TRANSACTIONS:** Contractor will provide DRES Director or designee a monthly report summarizing total commissions earned under contract, total sharing payments made to and due in the future to the Commonwealth based on completed transactions and a statement of commissions billed landlords/property owners but not yet collected by Contractor and the anticipated share thereof once collected.

**4. Additional Fee Sharing**

Should Contractor’s total commissions received for any calendar year within the three-year initial term exceed \$2 million, Contractor will provide the Commonwealth with an additional 20% refund of the actual gross commissions received by Contractor, after payment of the Commonwealth’s Share, that exceed that amount. Contractor shall maintain a reserve account and provide the Commonwealth an accounting of the fees collected at a frequency determined by DRES.

**B. Other Services**

**1. Project & Construction Management and Construction Administration**

Contractor will provide project and construction management by a subcontractor for large agency projects, as determined by the Commonwealth. These services will be charged at \$150.00 per hour plus normal reimbursable expenses. Annually the Contractor will provide 100 hours of construction management services at no charge. Contractor may bill for typical reimbursable expenses as applicable.

Contractor may, with prior written approval of the Commonwealth, designate a local agent or representative of the Contractor, in order to fulfill any Construction Administration Services requirements that the Commonwealth may require. Additional hours of Construction Administration Services, beyond 150 hours, will be charged at \$150 per hour.

In all cases, Contractor will partner with DRES on major projects in order to provide the full array of Project Management Services. These services will include coordination of architectural and engineering, cabling, technology, and construction services, and provided at no charge to the Commonwealth.

**2. Space Planning**

When Space Planning is requested, Contractor will coordinate with the architect designated by the Commonwealth for completion of a test fit plan and one revision. Test fit plans will commence with an approved Office Space Questionnaire (OSQ). Any revisions past the first one will have to be paid for by the agency.

Accurate as-built drawings from the landlord are to be provided the architect in an AutoCAD format and submitted electronically. If accurate as-built drawings are not available, then the landlord shall also bear the expense of having such plans developed and made available.

Contractor shall make every attempt possible to have the landlord pay for the test fit plan with revisions for prospective tenants. In the event that a specific landlord will not agree to do so and the Commonwealth requires such plans, Contractor will procure these services independently in partnership with Odell Associates Inc or other similarly qualified provider. The cost will be as below for one test-fit and one revision based upon receipt of electronically delivered "as-built" drawings using

Square Feet	Cost
3,000 SF OR LESS	\$450

3,001 SF to 10,000 SF	\$0.15 PSF
> 10,000 SF	\$0.12 PSF

Expenses for reproduction of drawings, couriers, or express mail, may be invoiced to the Commonwealth at the Contractor's cost. Travel expenses incurred may be reimbursed by the Commonwealth, with prior written consent, and provided that such expenses are submitted in accordance with the Commonwealth's requirements as stipulated in the section herein entitled Reimbursable Expenses.

### 3. Lease Drafting

The Contractor's Lease Administrator or any other individual designated by the Contractor, upon request by the Commonwealth, may provide the initial draft of lease for individual agency leases to the extent permitted by the real estate brokerage laws of the Commonwealth. Any collocation leases are to be completed by DRES staff. This service will be provided at no cost to the Commonwealth or an Authorized User.

### 4. Rates

Upon the request of the Commonwealth, Contractor may provide services at the following hourly rates ("Rates") for any Services outlined in Section III of the RFP Statement of Needs that are not provided for elsewhere herein, in such event that Commonwealth or an Authorized User requires such services, and DRES concludes in its sole discretion that an hourly compensation structure is appropriate:

<b>Position</b>	<b>Rates</b>
Senior Managing Director/Corporate Services Leader	\$325
Managing Director/Executive Vice President/Team Leader	\$325
Senior Account Managers/Senior Vice Presidents	\$275
Alliance Director/Senior Transaction Managers/Affiliate Manager	\$275
Brokers/Assistant Affiliate Manager	\$200
Consultants	\$150
Construction Administration	\$150
Manager of Information Services	\$120
Analysts	\$100
Architect	\$95
Senior Interior Designer/Project Director	\$95
Administrative Support & Research	\$65
Space Planner/Interior Designer	\$85

### 5. Reimbursable Expenses

When feasible, Contractor shall use project management professionals who are local to the specific project site. From time to time, Contractor staff/subcontractors may be required to travel to locations other than their primary work location, or as otherwise delineated in any

Statement of Work (SOW) accompanying a duly-authorized eVA Order. In such cases, Contractor staff may be reimbursed for meals, transportation and lodging in accordance with the Commonwealth's State Travel Regulations as posted on the Department of Accounts 'internet website: [http://www.doa.virginia.gov/Admin\\_Services/CAPP/CAPP\\_Main.cfm](http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Main.cfm)

## **2. ACCOUNT MANAGEMENT, STAFFING AND REPORTING**

Contractor will conduct semi-annual Account Reviews with the Commonwealth (DRES Director and designee(s)) in July and December of each contract year to review items such as overall contractor performance, total commissions earned and sharing payments made to Commonwealth, process improvement opportunities, required contractor staffing level adjustments and other contract related matters as the parties may agree to review from time to time.

Contractor as project team member on assigned transactions will utilize DRES' data base records management system to report progress related to Contractor's assigned tasks.

The Contractor is responsible for providing services in a timely and professional manner. Contractor will provide the requisite level of staffing that is necessary to successfully complete assigned tasks within required delivery dates.

Contractor will provide weekly progress reports of assigned tasks in the format as agreed to by the parties from time to time. Contractor will provide a report of cost avoidance and savings for each transaction completed during the previous month by the 15th day of the following month. Contractor will provide other reports from time to time as may be determined necessary by the Commonwealth.

Within 60 days of signing this agreement, Contractor agrees that any services provided under this agreement shall be provided, and supported, from a Contractor's office location within Virginia.

## **3. SHIP TO / BILL TO ADDRESSES**

Ordering Officers shall include shipping and billing addresses on individual orders referencing this Contract.

## **4. DGS POINTS OF CONTACT**

### **Contract Administration/Compliance**

Contract Administrator – Holly Eve  
Department of General Services  
Division of Real Estate Services  
1100 Bank St., 3rd Floor  
Richmond, VA 23219  
Telephone: (804) 225-3874  
Fax: (804) 225-4673  
Email: [DRES-Info@dgs.virginia.gov](mailto:DRES-Info@dgs.virginia.gov)  
Web: <http://dres.dgs.virginia.gov/>

### **Contract Information**

Contract Officer – Nezette Howard  
Procurement Services, DGS  
1100 Banks Street  
Richmond, VA 23219-2010  
Tel: 804-786-8768  
Fax: 804-786-1593  
[procurement@dgs.virginia.gov](mailto:procurement@dgs.virginia.gov)  
<http://www.dgs.virginia.gov>

## **5. CONTRACTOR POINTS-OF-CONTACT**

### **Contract Information**

### **Billing/Administration**

Sanford Cohen  
Chief Operation Officer  
One Columbus Center, Suite 700  
Virginia Beach, VA 23462  
757-497-2113  
scohen@divaris.com

Divaris Real Estate, Inc.  
One Columbus Center, Suite 700  
Virginia Beach, VA 23462  
757-497-2113  
757-497-1338

**Primary Contact – Account Manager**

John T. Wingfield  
1100 E. Main Street  
8<sup>th</sup> Floor  
Richmond, VA 23219  
804-643-4700  
jwingfield@divaris.com

**ATTACHMENT B  
AGREEMENT DGS-131031-DIV  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
DIVARIS REAL ESTATE, INC.**

***Sample Forms for Illustration Purposes***

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Attachment "B" is hereby incorporated into and made an integral part of Contract Number DGS-131031-DIV between the Commonwealth of Virginia's Department of General Services, ("Commonwealth" or "State" or "DGS") and DIVARIS REAL ESTATE, INC. (the "Contractor" or "DIVARIS").

Attachment B is comprised of several sample forms, provided for illustrative purposes, that are to be used by and between the Commonwealth and Contractor to coordinate the provision of Contractor's Services in accordance with the rates, terms, and conditions pursuant to this Contract DGS-131031-DIV, and provided such forms are approved and signed by duly authorized representatives of the parties to this Agreement, as delineated herein.

In the event of any discrepancy between any form, letter, or other document, and Contract DGS-131031-DIV, then the provisions of Contract DGS-131031-DIV shall control.

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Attachment B is comprised of the following sample forms:

- Sample A - Letter of Representation Form for COVA Property Lease
- Sample B - Letter of Representation Form for COVA Property Acquisition
- Sample C - Property Listing Agreement for COVA Property Sale
- Sample D - Property Listing Agreement for COVA Lease space
- Sample E - COVA Property Listing Information Form
- Exhibit A - Marketing Proposal

**Sample A – Letter of Representation Form for COVA Property Lease**

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Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN

Re: Letter of Representation

Project Description:

Agency - Location – Misc. Information  
Current Lease # \_\_\_\_\_ Sq. Ft., \_\_\_\_\_ Lease Expiration: \_\_\_\_\_

The Commonwealth of Virginia, through the Department of General Services, has appointed DIVARIS Real Estate, Inc. (DIVARIS) to represent us as our tenant agent in the above cited real estate transaction.

We authorize DIVARIS to represent the Commonwealth of Virginia in all negotiations with the landlord and any of the landlord's agents or representatives. We request that all such prospective landlord representatives cooperate fully and coordinate all related activities through DIVARIS.

We understand and expect the landlord/owner of the property will pay DIVARIS a commission or other fee that is normal and customary in the marketplace for representation of tenants in the event the transaction is completed. Proposal(s) or contracts resulting from such representation should provide for such payment.

Should you have any questions I can be reached by telephone at 804-225-3764 or by email at (To be determined). The contact for DIVARIS is \_\_\_\_\_. He can be reached by telephone at \_\_\_\_\_ or by email at \_\_\_\_\_.

We look forward to working with you on this transaction.

By:

\_\_\_\_\_  
Director, DGS Division of Real Estate Services

cc: Agency Real Estate Contact  
DRES – ARM

**Sample B – Letter of Representation Form for COVA Property Acquisition**

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Date: \_\_\_\_\_

TO WHOM IT MAY CONCERN

Re: Letter of Representation

Project Description:

The Commonwealth of Virginia, through the Department of General Services, has appointed DIVARIS Real Estate, Inc.(DIVARIS) to represent us as our procuring broker in the above cited real estate transaction.

We authorize DIVARIS to represent the Commonwealth of Virginia in all negotiations with the property owner and any of the property owner's agents or representatives. We request that all such prospective property owner representatives cooperate fully and coordinate all related activities through DIVARIS.

We understand and expect the property owner of the property will pay DIVARIS a commission or other fee that is normal and customary in the marketplace for representation of purchaser in the event the transaction is completed. Proposal(s) or contracts resulting from such representation should provide for such payment.

Should you have any questions I can be reached by telephone at 804-225-3874 or by email at (To be determined). The contact for DIVARIS is \_\_\_\_\_. He can be reached by telephone at \_\_\_\_\_ or by email at \_\_\_\_\_.

We look forward to working with you on this transaction.

By:

\_\_\_\_\_  
Director, DGS Division of Real Estate Services

cc: Agency Real Estate Contact  
DRES – ARM

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**Sample C – Property Listing Agreement for COVA Property Sale**

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COMMONWEALTH OF VIRGINIA  
LISTING AGREEMENT

This Listing Agreement is made and entered into pursuant to Virginia Code §2.2-1156 and Master Agreement DGS-131-031-DIV (the "Master Agreement"), by and between the Commonwealth of Virginia, ("Owner") and DIVARIS Real Estate, Inc., a Virginia Corporation, ("Broker").

For and in consideration of the mutual covenants contained herein, Owner and Broker agree as follows:

1. The Broker shall provide real estate brokerage services to broker the sale of certain real estate located at \_\_\_\_\_, as set forth in the Master Agreement.

In the event there may exist any conflict between the terms and conditions of this Listing Agreement and the Master Agreement, the Master Agreement shall prevail.

2. Owner grants to Broker the exclusive right to sell the Property during the \_\_\_\_\_ period of time commencing on \_\_\_\_\_, and expiring at midnight on \_\_\_\_\_, (the "Listing Period") subject to Paragraphs 13 and 14 of this Listing Agreement. The Listing Period may be extended for additional ninety-day periods under the terms and conditions of this Listing Agreement upon written agreement of both parties.

3. The minimum listing price shall be at least \_\_\_\_\_, or such other price and upon such terms as may be agreed by Owner. Owner will convey title to the Property by Special Warranty deed subject to any rights, privileges, covenants, restrictions, conditions or easements encumbering the Property, whether located above, upon, or under the surface, either presently in use or of record.

4. Broker shall take all appropriate action and use diligent efforts, to bring about a sale of the Property during the Listing Period. Broker shall be responsible for all costs and expenses related to the marketing of the Property, with no right of reimbursement from Owner. Broker shall endeavor to have offers to purchase submitted on the Contract of Purchase and Sale form ("Contract") to be provided by the Commonwealth. No offer will be accepted if such offer requires the Owner or the Commonwealth of Virginia to waive its sovereign immunity, to extend its sovereign immunity or credit to any other party or to take any other action that is contrary to the laws and established policies of the Commonwealth of Virginia.

5. Owner authorized Broker to place "For Sale" signs on the Property during the Listing Period. Owner will make the Property available to Broker and real estate brokers and salespersons employed by and affiliated with Broker at reasonable times and upon reasonable notice for the purpose of showing the Property to prospective purchasers. Owner agrees to refer all inquiries and offers made to it with regard to the sale of the Property during the Listing Period to Broker.

6. Broker agrees to provide semi-monthly progress reports to Owner by the 1<sup>st</sup> and 15<sup>th</sup> of each calendar month outlining specific efforts taken and/or accomplishments achieved during the reporting period.

7. (a) If Broker presents a contract to Owner during the Listing Period, which contract or other offer is approved by the Governor pursuant to Virginia Code §2.2-1156 either during the term or after the expiration of the Listing Period, Owner will pay Broker a fee (the "Fee") of \_\_\_\_\_percent ( %) of the sale price; provided, however, the Fee shall become due and be paid only upon closing the sale under the terms on the Contract. In the event closing does not occur for any reason whatsoever, Owner shall not be liable to Broker for the Fee.

(b) If, within thirty days after the expiration of the Listing Period, Owner obtains a contract for the sale of the Property, which Contract or other offer shall subsequently receive the written recommendation of the Department of General Services and is approved by the Governor pursuant to Virginia Code §2.2-1156, from a purchaser who was introduced to the Property by Broker during the Listing Period, then Owner shall pay Broker the Fee at closing as provided in Paragraph 7 (a), provided, however, that Owner shall not be obligated to pay Broker the Fee if, after the expiration of the Listing Period, Owner shall have entered into a Listing Agreement with another broker for sale of the Property. Prior to the expiration of the Listing Period, Broker shall provide Owner with a list of all prospective purchasers introduced to the Property by Broker. The terms of this Paragraph shall only apply to prospective purchasers including on the list provided by Broker to Owner.

8. The parties do not contemplate use of brokerage services by any third party broker. Neither Owner nor Broker shall take any action to secure, consent to or otherwise allow a third party broker to participate in the sale, except in the case of a buyer-broker paid by the buyer.

9. Owner authorizes Broker to submit pertinent information concerning the listing of this Property to multiple listing services and other advertising services and media, to distribute such information to other brokers, and to solicit the cooperation of other brokers, but at no cost to Owner, in securing a purchaser for the Property.

10. Owner makes no representation or warranty with regard to the condition, value or permitted use of the Property, or with regard to the presence on the Property of any toxic or hazardous substances or materials of any nature, including petroleum, lead, radon, asbestos or asbestos related materials. The Property will be conveyed "as is" except as otherwise provided in the Contract. Owner makes no representations or warranties with respect to any documentation and information owner may provide to Broker, and Broker shall not make any representations or warranties whatsoever with respect to such documentation and information.

11. Any notice which a party to this Listing Agreement is required or may desire to give the other party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested. Notices shall be deemed made and complete when so delivered or mailed.

OWNER: Commonwealth of Virginia  
c/o Division of Real Estate Services  
1100 Bank Street, 3rd Floor  
Richmond VA 23219

Attention: Director or such other address or contact person as OWNER may direct in writing.

BROKER: Divaris Real Estate, Inc.  
One Columbus Center, Suite 700  
Virginia Beach, VA 23462  
Attention: Sanford M. Cohen

or such other address or contact person as BROKER may direct in writing.

12. This Listing Agreement and the Contract Documents constitute the entire agreement between Owner and Broker and may be amended or modified prior to its expiration only by written agreement between the parties hereto. This agreement shall be construed and enforced in all respects according to the laws of the Commonwealth of Virginia.

13. Owner reserves the right to cancel and terminate this agreement without penalty or liability for commission, upon sixty (60) days written notice to Broker. Any termination under this section shall be subject to the terms of Paragraph 7(b) of this Listing Agreement.

14. If there is a default by Broker under the terms of this Listing Agreement, Owner shall have the right to immediately terminate this Listing Agreement without penalty or liability for commission upon written notice to Broker.

Witness the following signatures by the duly authorized representatives:

Owner: Commonwealth of Virginia  
Department of General Services  
Division of Real Estate Services

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Broker: Divaris Real Estate, Inc.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

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**Sample D – Property Listing Agreement for COVA Leased Space**

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COMMONWEALTH OF VIRGINIA

LISTING AGREEMENT

This Listing Agreement is made and entered into pursuant to Virginia Code §2.2-1155 and Contract DGS-131031-DIV (the “Master Agreement”) by and between the Commonwealth of Virginia and Divaris Real Estate Inc., a Virginia corporation (“Broker”). The owner of the property subject to this Listing Agreement is <<AGENCY.>> (“Owner”).

For and in consideration of the mutual covenants contained herein, Owner and Broker agree as follows:

1. The Broker shall provide real estate brokerage services as set forth in the Master Agreement, to broker the lease of a portion of that certain real estate known as \_\_\_\_\_ (the “Property”).

The Department of General Services, through its Division of Real Estate Services, manages the Commonwealth of Virginia’s real estate portfolio. The Broker agrees to extend the terms, pricing, and conditions of the Master Contract to ?<<sub-broker?>> for the exclusive right to lease the Premises based on the terms, conditions, prices, and percentages described herein.

In the event there may exist any conflict between the terms and conditions of this Listing Agreement and the Master Agreement, the Master Agreement shall take precedence.

2. Owner grants to Broker the exclusive right to lease the Property during the \_\_\_\_\_ period of time commencing on \_\_\_\_\_, and expiring at midnight on \_\_\_\_\_, (the “Listing Period”) subject to Paragraphs 13 and 14 of this Listing Agreement. The Listing Period shall be extended on a month-to-month basis under the terms and conditions of this Listing Agreement upon written agreement of both parties, subject to the right of either party to terminate this Listing Agreement at the end of any such month with not less than thirty (30) days’ notice.

3. Broker shall take all appropriate action and use diligent efforts, to bring about one or more leases of the Property during the Listing Period. Without limiting the foregoing or other terms of this Listing Agreement, Broker shall prepare and deliver to Owner the marketing proposal specified on the attached Exhibit A within two weeks of the date of the last signature to this Listing Agreement. Thereafter, Broker shall perform the minimum marketing activities specified on Exhibit A within the time periods specified on Exhibit A as well as perform any additional marketing activities identified in the marketing proposal within the time periods identified in the marketing proposal. Broker shall be responsible for all costs and expenses related to the marketing of the Property, with no right of reimbursement from Owner. Broker shall endeavor to have offers to lease (the “Lease”) submitted on the Deed of Lease form to be provided by the Commonwealth. No offer will be accepted if such offer requires the Owner or the Commonwealth of Virginia to waive its sovereign immunity, to extend its sovereign immunity or credit to any other party or to take any other action that is contrary to the laws and established policies of the Commonwealth of Virginia. In no event shall the offer to lease be for an initial term greater than 15 years.

4. Owner will make the Property available to Broker and real estate brokers and salespersons employed by and affiliated with Broker at reasonable times and upon reasonable notice for the purpose of showing the Property to prospective tenants. Owner agrees to refer all inquiries and offers made to it with regard to the lease of any portion of the Property during the Listing Period to Broker.

5. Broker agrees to provide semi-monthly written progress reports to Owner by the 1<sup>st</sup> and 15<sup>th</sup> of each calendar month outlining specific efforts taken and/or accomplishments achieved during the reporting period.

6. (a) If Broker presents a Lease to Owner during the Listing Period, which Lease or other offer receives the written recommendation of the Department of General Services and is approved by the Governor pursuant to Virginia Code §2.2-1155, either during the term or after the expiration of the Listing Period, then upon final execution of such Lease Owner will pay Broker a fee (the "Fee") of \_\_\_ percent (\_\_\_%) of the gross revenue of the Lease during the initial term of the Lease, payable annually in June. In the event final execution of the Lease does not occur for any reason whatsoever, Owner shall not be liable to Broker for the Fee.

(b) If, within thirty days after the expiration of the Listing Period, Owner obtains a Lease of a portion of the Property, which Lease or other offer shall subsequently receive the written recommendation of the Department of General Services and is approved by the Governor pursuant to Virginia Code §2.2-1155, from a tenant who was introduced to the Property by Broker during the Listing Period, then Owner shall pay Broker the Fee at final execution of Lease as provided in Paragraph 6(a), provided, however, that Owner shall not be obligated to pay Broker the Fee if, after the expiration of the Listing Period, Owner shall have entered into a Listing Agreement with another broker for lease of the Property. Prior to the expiration of the Listing Period, Broker shall provide Owner with a list of all prospective Tenants introduced to the Property by Broker. The terms of this Paragraph shall only apply to prospective tenants included on the list provided by Broker to Owner.

7. The parties contemplate use of cooperating brokerage services by a third party broker. Broker shall take customary action to secure, consent to or otherwise allow a third party broker to participate in the Lease.

8. Owner authorizes Broker to submit pertinent information concerning the listing of this Property to multiple listing services and other advertising services and media, to distribute such information to other brokers, and to solicit the cooperation of other brokers, but at no cost to Owner, in securing one or more tenants for the Property.

9. Owner makes no representation or warranty with regard to the condition, value or permitted use of the Property, or with regard to the presence on the Property of any toxic or hazardous substances or materials of any nature, including petroleum, lead, radon, asbestos or asbestos related materials. Owner makes no representations or warranties with respect to any documentation and information Owner may provide to Broker, and Broker shall not make any representations or warranties whatsoever with respect to such documentation and information.

10. Any notice which a party to this Listing Agreement is required or may desire to give the other party shall be in writing, addressed as provided below, and may be personally delivered or given by prepaid United States registered or certified mail, return receipt requested. Notices shall be deemed made and complete when so delivered or mailed.

OWNER: Commonwealth of Virginia, <<agency>>\_\_\_\_\_

and copy to:

Commonwealth of Virginia, Department of General Services  
c/o Division of Real Estate Services  
1100 Bank Street, 3<sup>rd</sup> Floor  
Richmond, VA 23219  
Attention: Director

or such other address or contact person as OWNER may direct in writing.

BROKER: Divaris Real Estate, Inc.  
One Columbus Center, Suite 700  
Virginia Beach, VA 23462  
Attention: Sanford M. Cohen

or such other address or contact person as BROKER may direct in writing.

11. This Listing Agreement and the Master Contract constitute the entire agreement between Owner and Broker and may be amended or modified prior to its expiration only by written agreement between the parties hereto. This agreement shall be construed and enforced in all respects according to the laws of the Commonwealth of Virginia.

12. Owner reserves the right to cancel and terminate this Listing Agreement without penalty or liability for commission, upon sixty (60) days written notice to Broker. Any termination under this section shall be subject to the terms of Paragraph 6(b) of this Listing Agreement.

13. If there is a default by Broker under the terms of this Listing Agreement, Owner shall have the right to immediately terminate this Listing Agreement without penalty or liability for commission upon written notice to Broker.

Witness the following signatures by the duly authorized representatives:

Owner: Commonwealth of Virginia,  
<<agency>>\_\_\_\_\_

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Broker: Divaris Real Estate, Inc.

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

The Commonwealth of Virginia, Department of General Services, consents to the execution of this Listing Agreement.

Commonwealth of Virginia,  
Department of General Services

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

## EXHIBIT A

### Marketing Proposal

Within two weeks of the date of the last signature to the Listing Agreement, Broker shall prepare and deliver to Owner a marketing proposal for the Property that will include (i) specifying Broker's agent in the region of the Property with responsibility for marketing the Property, (ii) listing any identifiable potential tenants and how and when such tenants will be marketed to, and (iii) detailing the marketing activities to be undertaken and when they will be undertaken, which activities at a minimum shall include the following:

Activity	Performance Deadline (Measured from Date of the Last Signature to the Listing Agreement)
----------	--

<u>Comparative Market Analysis</u>	2 weeks
If not performed previously, deliver to Owner a written comparative market analysis including both closed transactions and most competitive comparable listings.	

<u>Multiple Listing Service</u>	2 days
Submit listing and any listing modifications in all applicable multiple listing services and other appropriate commercial advertising services and media.	

<u>Marketing Materials</u>	1 week
Distribute marketing flyer and listing information, including modifications, to other brokers.	

**ATTACHMENT C  
TO  
AGREEMENT DGS-131031-DIV  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
DIVARIS REAL ESTATE, INC.**

***SAMPLE STATEMENT OF WORK (SOW)***

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**TO BE USED FOR ADDITIONAL SERVICES PERFORMED BY CONTRACTOR FOR DRES**

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The following template is for illustrative use only and is to be coordinated between the Ordering Officer and Contractor for purposes of obtaining Contractor services as delineated herein under Attachment A, section entitled "Other Services." Following completion, the SOW shall accompany an eVA Requisition for any hourly-rate services from the DGS Ordering Officer to facilitate the approval of an eVA Contract Order.

In the event of any discrepancy between any SOW and CONTRACT DGS-131031-DIV, then the provisions of CONTRACT DGS-131031-DIV shall control

---

1. Effective Date of this SOW: *This SOW is effective as of <<Insert Date>>*
2. Authorized User (Agency Name): *<<Insert name of Commonwealth public body>>*
3. Authorized User Contact Info: *<<Insert all address and other contact information of the public body>>*
4. Ship To/Bill To Addresses: *<<Insert relevant information to appear on the eVA Order to correctly bill information. >>*
5. Project Description: *<<Insert a name and description for project, goals, etc.>>*
6. Scope of Work:
  - a. Services required:
  - b. Custom report needs (other than packaged reports):
  - c. Data conversion requirements, if any:
  - d. Training Plan:
  - e. Etc.
7. Timelines:
8. Deliverables:
9. Project Milestones (if applicable):
10. Acceptance and Testing Criteria (if applicable):

- 11. Controls and Guidelines:
- 12. Scheduled Work Hours:
- 13. Travel Required / Primary Work Place:
- 14. Cost of Services:
- 15. Other:
- 16. Background Info:
- 17. Facility, equipment, etc. to be provided by DGS:

**THIS DOCUMENT IS ONLY VALID WHEN ACCOMPANIED BY AN EVA ORDER**

**COORDINATED BY:**

**DIVARIS REAL ESTATE, INC.**

**DEPARTMENT OF GENERAL SERVICES/  
DIVISION OF REAL ESTATE SERVICES**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**ATTACHMENT D  
TO  
AGREEMENT DGS-131031-DIV  
BETWEEN  
THE COMMONWEALTH OF VIRGINIA  
AND  
NAME of AUTHORIZE USER  
AND  
DIVARIS REAL ESTATE, INC.**

**SAMPLE STATEMENT OF WORK (SOW) FOR  
AUTHORIZED USERS**

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**TO BE USED WHEN AN AUTHORIZED USER WANTS TO OBTAIN REAL ESTATE  
SERVICES BY USING THIS CONTRACT**

The following template is for illustrative use only and is to be coordinated between the Commonwealth of Virginia, Authorized User and Contractor for purposes of obtaining DRES and Contractor services as delineated in contract DGS-131031-DIV. Following completion, the SOW shall accompany an eVA Requisition for any hourly-rate services as stipulated under Attachment A, section entitled "Other Services" from the DGS Ordering Officer to facilitate the approval of an eVA Contract Order.

In the event of any discrepancy between any SOW and CONTRACT DGS-131031-DIV, then the provisions of CONTRACT DGS-131031-DIV shall control

- 
1. Effective Date of this SOW: *This SOW is effective as of <<Insert Date>>*
  2. Authorized User (Agency Name): *<<Insert name of public body>>*
  3. Authorized User Contact Info: *<<Insert all address and other contact information of the public body>>*
  4. Ship To/Bill To Addresses: *<<Insert relevant information to appear on the eVA Order to correctly bill information. >>*
  5. Project Description: *<<Insert a name and description for project, goals, etc.>>*
  6. Scope of Work:
    - a. Services required:
    - b. Custom report needs (other than packaged reports):
    - c. Data conversion requirements, if any:
    - d. Training Plan:
    - e. Etc.
  7. Timelines:
  8. Deliverables:

- a. from Contractor
- b. from Authorizer User
- c. from DGS

- 9. Project Milestones (if applicable):
- 10. Acceptance and Testing Criteria (if applicable):
- 11. Controls and Guidelines:
- 12. Scheduled Work Hours:
- 13. Travel Required / Primary Work Place:
- 14. Cost of Services:
- 15. Other:
- 16. Background Info:
- 17. Facility, equipment, etc. to be provided by DGS:

**THIS DOCUMENT IS ONLY VALID WHEN ACCOMPANIED BY AN EVA ORDER**

**COORDINATED BY:**

**1) AUTHORIZED USER**

**2) DIVARIS REAL ESTATE, INC.**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE \_\_\_\_\_

**3) DEPARTMENT OF GENERAL SERVICES/  
DIVISION OF REAL ESTATE SERVICES**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE \_\_\_\_\_