

Digitization of [Material]
MEMORANDUM OF AGREEMENT
between

Virginia Polytechnic Institute and State University and [Holding Institution]

Purpose

This Memorandum of Agreement (“MOA”) outlines the relationship between **Virginia Polytechnic Institute and State University (“Virginia Tech”) University Libraries** (VTUL) and [Holding Institution/Person] of [Holding Institution address] (hereinafter referred to as “Holding Institution”) and sets forth the duties and responsibilities of both parties as they work cooperatively to achieve their mutual goal of providing [digitization, access and preservation] of [Collection, Series, Material] that are in the custody of [Holding Institution/Person] and under the care of [Person] and the [Department/Organizational Entity]. The Material covered in this MOA include [Description of material], from the [Date Range of material]. [If available, include a reference to any documents that more fully describe the Material and attach it to this MOA as an appendix]. The overarching goal of this MOA is to manage expectations of the parties involved, help guide project planning and assist in coordinating the work of multiple departments from multiple institutions.

Terms

The parties to this MOA agree that, while the matters covered in this document are meant to address present areas of mutual concern, this document is not all-inclusive, but serves as a statement of intent. Other matters may arise that require mutual discussion and agreement, and other areas of collaboration may be identified. These shall be addressed on a case-by-case basis and may result in separate MOAs or additional appendices.

This MOA may be extended by the mutual agreement of the parties as expressed in a written amendment hereto. Should either party elect to terminate this MOA at any time or for whatever cause, sixty (60) days’ written notice shall be provided to the other party. The digital content produced as a result of the MOA will hereafter referred to as “Output.”

Either party may terminate this MOA by written notice to the other party (i) immediately upon material breach by the other party if such breach cannot be remedied, or (ii) if the other party fails to cure any material remediable breach within 30 days of receipt of written notice.

Scope of Work

This MOA is a commitment on both parties to develop/produce the digital project as it is described below. Changes to the responsibilities of either party should be agreed upon in writing by both parties and should be attached to this MOA as a signed amendment.

Example:

Material	Items	Images	Data (GB)
Ledgers	3	~300	17.6
Photographs	37	2,400	140.6
Newspapers	27	~432	42.2
Total	67	3,132	200.4

Projected Resources

Example

Virginia Tech	Description	Hours
Project Planning		11
Digitization		55
Metadata		23
Repository		10
Publication		4
Preservation		11
Project Management		7
Total		121

Holding Institution	Description	Hours
Project Planning		15
Collection Prep		23
Metadata		37
VTUL Collaboration		17
Project Management		5
Total		97

- Any existing MOAs between VTUL and the Holding Institution should be reviewed prior to completion of this agreement, to avoid duplication or contradiction of previously promised Output. Any existing MOAs between VTUL and the Holding Institution are included with this MOA as an appendix. To the extent that any terms contained in an appendix conflicts or is inconsistent with this MOA, the terms contained in this MOA will take precedence.

Responsibilities

Virginia Tech University Libraries will perform the following work, with respect to the Material:

- Create and champion a project proposal using established workflows and forms used by VTUL.
- Perform collection analysis of the Material outlined in the project proposal either by transferring Material to VTUL or during a site visit.
- Create a condition report for the Material when it is received and completed before digitization begins.
- Perform pre-digitization review of Material to identify any missing, damaged or out of scope material.
- Develop scanning guidelines in collaboration with Holding Institution's staff.
- Establish the metadata profile in collaboration with the Holding Institution's staff.
- Digitize the original documents to FADGI 4 standards, unless otherwise specified and provide quality control for the scans.
- Apply metadata to the digital files using a data model established in collaboration with the Holding Institution. In addition, if the Holding Institution has responsibility for the metadata creation process, the VTUL will supply a metadata profile for the intended public platform.
- Provide development work for interface customizations to facilitate research use of the digital collection.
- Ingest the scans and associated metadata into VTUL's platform for digital collections.

- Provide safe transport of original documents from the Holding Institution to VTUL for digitization and back to the Holding Institution, following mutually agreed-upon procedures for transport and documenting receipt and return of Material.
- Be responsible for the digitized material and metadata, which will be stored in appropriate Virginia Tech systems or secure hosted servers to facilitate VTUL asset management and access provisions.
- Store and monitor master copies of digital files in a distributed digital preservation storage system.
- Provide free public access to surrogate digital files through an online digital library accessible via a web browser.
- Ensure the metadata file of each digitized file clearly indicates that the Holding Institution owns the original object.
- Digitize the Holding Institution's permanent collection items onsite within the physical confines of the Holding Institution when applicable.

VTUL will not digitize documents that the Holding Institution chooses not to send to VTUL or include in onsite digitization.

VTUL agrees not to sell, donate, or deposit the Materials, including digital files or copies, at any other institution.

Holding Institution will perform the following work in partnership and consultation with VTUL:

- Prepare the original Material for digitization in consultation with VTUL staff.
- Share collection information such as inventory lists and finding aids.
- Share document, folder, and volume counts of the Material to be digitized.
- Share physical organization and collection condition information.
- Establish the metadata profile in collaboration with VTUL staff.
- Develop a feasible approach for collecting and recording metadata.
- Develop scanning guidelines in collaboration with VTUL staff.
- Work with VTUL to identify digital files that can be accessed publicly through VTUL's platform for digital collections.
- Review VTUL interface for Holding Institution's digital collection.
- Review VTUL Preservation Plan for Holding Institution's digital collection.
- Abide by the agreed upon timeline.
- Provide access to the collections for the VTUL digitization team. This may include dedicating one or more members of the Holding Institution staff to handle the objects so that the VTUL digitization team can photograph them to a high standard.
- Provide access to metadata and other descriptive or administrative documentation about the collections.
- Provide an adequate environment for digitization of its permanent collection. Adequacy of the environment is to be negotiated between Virginia Tech Digitization Coordinator and the Holding Institution's staff.

Custodianship/Temporary Custodianship

While digitization work is being completed, VTUL will assume temporary custodianship of the Materials. During this time, VTUL will make every effort to preserve the original condition of items. Any intentional change to the condition (for example, removal from/destruction of a permanent housing or removal of

metal) is subject to approval by the Holding Institution. All scanning technicians will review the safe handling guidelines and material handling training established by VTUL prior to digitization. In the event of unintentional or accidental damage, VTUL will work with the Holding Institution on a mutually agreed upon solution.

Copyright

Holding Institution warrants it is the sole and legal owner(s) with full right and authority to enter this MOA and grant the rights granted herein for the Materials presented for digitization and fully described in Scope of Work and/or an Appendix attached hereto and incorporated herein.

1. Holding Institution desires to transfer the Materials for the purposes of digitization, preservation and publication via an online digital library management by VTUL for inclusion and unrestricted access and use in the collection of the VTUL.
 - a. Any limitations on access or use, or other known restrictions (legal, medical, or privacy concerns) must be detailed in this MOA.
2. No term or provision of this instrument shall be interpreted to limit or restrict the fair use rights of VTUL or users of the Materials as provided by U.S. Copyright Law, Title 17, U.S.C. ("Fair Use Rights").
3. To the extent that copyright may be shared with others and notwithstanding the Fair Use Rights, Holding Institution grants VTUL a nonexclusive, royalty free, perpetual license:
 - a. To make copies of the Materials for purposes of preservation and creation of a usable archival copy and to permit others to make copies of the Materials consistent with the Fair Use Rights.
 - b. To display and reproduce the Materials in Holding Institution exhibitions, catalogs, publications or advertisements both on and off campus.
 - c. To digitize the Materials or use any technological substitute VTUL deems appropriate to preserve and provide access to the Materials.
 - d. To provide unrestricted access, including Internet or other wireless or digital access to, the Materials consistent with VTUL's access guidelines.
 - e. To provide access copies for use in personal research use, scholarship, scholarly publication, exhibit, or other non-commercial public display or use.
 - f. To provide access copies for commercial use without permission from the Holding Institution. If the Holding Institution notifies VTUL it does not have permission to provide copies for commercial use, VTUL will direct any parties asking for commercial this use will be directed to the Holding Institution for permission, and if the Holding Institution grants permission is granted, VTUL will supply the requested digital materials.
4. To the extent allowable by law, Holding Institution shall indemnify, defend and hold VTUL harmless from any losses, claims, damages, awards, penalties or injuries incurred by VTUL, including reasonable attorneys' fees, which arise from any claim by any third party of an alleged infringement of copyright or any other property right arising out of VTUL's access to, and use of, the Materials.
5. Holding Institution shall provide VTUL with all information and documentation regarding the provenance of the Materials, including any information relating to intellectual property rights.
6. Holding Institution grants VTUL the right to store acquired digital content in its entirety for preservation purposes in a distributed storage system.
7. Holding Institution grants VTUL the right to access all data from digital media included in the Materials, including deleted files, log files, and systems files, and content protected by passwords or encryption. Holding Institution understands and agrees that VTUL may utilize methods to bypass or unlock passwords and/or encryption protections in order to gain access to

the data for preservation and scholarly purposes. Any restrictions on access to the Materials requested by the Holding Institution will apply to any such recovered information.

8. The Materials will be physically stabilized and preserved by VTUL including, as appropriate, placing the Materials in non-damaging containers and storing in secure facilities monitored for temperature and humidity levels.
9. In the event that Holding Institution may hereafter provide additional materials to VTUL for the purposes of digitization, preservation, and publication, such additional materials are also subject to the terms of this MOA. The parties shall sign an addendum setting forth a description of the additional materials to be transferred and any conditions necessary and pertinent to those specific, newly-transferred materials.

Ownership

VTUL is the owner of the database, website, and all Output produced in the course of this project. VTUL is the owner of any physical or electronic content permanently transferred to the library or produced by the library in the course of this project. Holding Institution may request, and VTUL may provide, a copy of the images and/or metadata at any time.

Timeline

- Through mutual agreement, with input from the necessary stakeholders from Holding Institution and VTUL, it has been established that digitization, publication, and preservation of Material, with the boundaries outlined in this MOA shall be executed from [Date] through [Date].
- Where required, stakeholders involved in the arrangement, transfer of Material, digitization, metadata, repository and preservation have been consulted prior to the signing of this MOA and affirm that this is a reasonable timeline to fully execute the proposed project prior to the end date.
- Both parties agree to abide by the previously agreed upon timeline.
- If Holding Institution or VTUL misses a deadline, then the parties will meet to discuss an adjusted timeline. The mutually agreed upon adjusted timeline will set out in an amendment and replace the established timeline.

Contingencies

Both parties recognize that deadlines are critical to the project's success; however, both parties recognize that missed deadlines may occur. If either party misses a previously agreed upon deadline, then the other party has the option to extend the timeline. A mutually agreed upon adjusted timeline will replace the current timeline.

Notice and Point of Contact

All notices and other communications required hereunder shall be in writing sent to the addresses shown below and deemed to have been given: (i) when personally delivered, (ii) three days after being mailed by certified mail, return receipt requested, postage prepaid, (iii) one day after being sent by nationally recognized overnight courier with guaranteed next day delivery, or (iv) upon confirmation of receipt (which may not be an automated system confirmation) when sent by electronic mail:

If to VTUL:

If to Holding Institution:

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed intending to be bound thereby.

VIRGINIA TECH

[HOLDING INSTITUTION]

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____