

**Memorandum of Agreement regarding Operational Services Transition Package**

This Memorandum of Agreement is entered into as of \_\_\_\_\_ by and between Mauna Kea Stewardship and Oversight Authority, a body corporate and a public instrumentality of the State of Hawai'i (MKSOA) and the University of Hawai'i, the state university and a body corporate of the State of Hawai'i (UH) to establish an operational arrangement between the parties of various expenses related to the transition of stewardship and operation of the Mauna Kea lands in accordance with Act 255 (2022). The Term Sheet attached hereto sets forth the mutual obligations of MKSOA and UH with respect to the Operational Services and the Additional Services as defined therein, and those Terms are hereby incorporated by reference.

If the terms and conditions as set forth herein are agreeable to the parties, kindly sign below.

**MAUNA KEA STEWARDSHIP AND OVERSIGHT AUTHORITY**

By:  
Name:  
Its:  
Date:

Approved as to Form:

By:  
Name: Linda Chow  
Its: Deputy Attorney General  
Date:

**UNIVERSITY OF HAWAI'I**

By:  
Name:  
Its:  
Date:

Approved as to Form and Legality:

By:  
Name: Erika Strawn  
Its: Associate Vice President for Legal Affairs  
Date:

**UH/MKSOA Operational Services Transition Package  
Term Sheet**

**Background**

Revenue and funding impacts threaten the successful transition of management obligations for the Mauna Kea lands in accordance with Act 255, Session Laws of Hawai'i 2022 ("Act 255") and exacerbate the need for operational stability during the transition period. This plan for operational services transition is needed to ensure: (a) maintenance of current staffing and service levels for the continued operations of UH Center for Maunakea Stewardship ("CMS") at Mauna Kea; and (b) the project schedule of pre-integration tasks for Mauna Kea Stewardship and Oversight Authority ("MKSOA") and the University of Hawai'i ("UH"), and accordingly, the transition deadline of July 1, 2028, required by Act 255.

Hawai'i Revised Statutes (HRS) § 195H-5(a)(10) enables MKSOA to "[E]nter into cooperative agreements, easements, subleases, or other contracts, as necessary, with any state agency, county agency, or private landowner." To ensure continuity of operations and accelerate the pre-integration tasks with CMS, as well as mitigate delays to the transition deadline required by Act 255, MKSOA is executing an Operational Services Transition Package with UH for their provision of services from May 1, 2026, through June 30, 2027 (the "Operational Services Transition Package").

**I. Purpose and Scope of Services**

**A. Operational Services**

The purpose of the Operational Services Transition Package ("Agreement") is to ensure continuity of operations during the transition period. This includes UH providing ongoing services related to implementation, management, and compliance with UH's Master Plan, Comprehensive Management Plan, and Administrative Rules. As further specified herein, the funds provided under the Agreement may be used by UH to fund the following CMS services ("Operational Services"):

1. Managing project reviews to ensure consistency with the Master Plan project review process.
2. Implementing management actions identified in the Comprehensive Management Plan.
3. Ensuring Mauna Kea Observatory (MKO) compliance with subleases and permits.
4. Enforcing UH Administrative Rules and applicable law regarding public access and commercial activities.
5. Ensuring the continuity of daily operations throughout the transition period in accordance with the governing rules above.
6. Assisting MKSOA to determine the details of the transition of consenting CMS employees to MKSOA.
7. Assisting MKSOA in the creation of policies, processes, and positions necessary for an equitable transition of consenting CMS employees to MKSOA, as well as their respective onboarding and orientation.

8. Assisting MKSOA with pre-integration tasks, such as the development of strategy and governance plans, coordination of communications plans, migration of IT systems and data, business process mapping of operations, and training regarding human resources, legal, budget, and finance functions.
9. Assisting MKSOA with the technical and administrative support for MKSOA integration planning and implementation.

**B. Reporting**

CMS will prepare reports to the JMC and will report on their management activities as specified below:

1. Provide operational and joint management reports at the monthly MKSOA board meetings.
2. Coordinate and facilitate the bi-monthly JMC agendas and meetings.
3. Provide quarterly financial and departmental reports highlighting important and priority activities.
4. Provide copies of UH's annual reports to the Legislature, Board of Land and Natural Resources ("BLNR"), and other Agencies, as may be required; MKSOA will similarly provide UH with copies of MKSOA's annual reports to the Legislature, BLNR, and other Agencies.

In addition, assuming no conflicts of interest or legal constraints, CMS will continue to provide financial and other information, as available when requested, to support MKSOA transition planning and management plan development, in accordance with Act 255.

**C. Additional Services**

The parties also agree that funds provided herein may be used by UH for the following CMS activities deemed necessary by CMS for the successful transition of management in accordance with Act 255 ("Additional Services") as approved by MKSOA and UH:

1. Leading the expansion of planned, or assisting with the development of new, conservation and education programs.
2. Supplemental Ranger program expenses including but not limited to salaries, equipment, training, and contractor support during high volume public traffic.
3. Replacement of CMS heavy equipment, utility and support vehicles.
4. Deferred facility maintenance, infrastructure upgrades, emergency response, and repairs.

**II. Time of Performance**

**Draft Dated April 09, 2026**

The Agreement shall commence May 1, 2026, and shall continue through June 30, 2027 (“Term”). The Agreement shall be reviewed no less than every four months and can be renewed or extended by mutual agreement in writing, with amended terms as approved by the parties. Amendments could include the amount of financial contribution, length of the Agreement, or other terms as agreed. The parties will extend the term of the Agreement, as additional MKSOA funding is appropriated beyond June 30, 2027.

**III. Compensation**

<b>Operational Services Budget</b>	<b>\$2,009,000</b>
1. Ongoing implementation, management, and compliance with UH’s Master Plan, Comprehensive Management Plan, and Administrative Rules	\$1,500,000
2. Assisting MKSOA with integration planning and implementation	\$494,000
3. Facility Use at Hale Pōhaku	\$15,000
<b>Additional Services Budget</b>	<b>\$2,525,000</b>
<i>Expenditures subject to approval by both MKSOA and UH, each through their respective delegation of authority and approval process</i>	
1. Development of additional conservation and education programs	\$200,000
2. Supplemental Ranger Program	\$600,000
3. Replacement of CMS heavy equipment, utility, and support vehicles	\$1,475,000
4. Deferred facility maintenance, infrastructure upgrades, emergency response and repairs	\$250,000
<b>Total</b>	<b>\$4,534,000</b>

MKSOA will pay \$4,534,000 U.S. Dollars (\$4.534M) to UH that will include: \$2.009M for the current Operational Services Budget and \$2.525M for the Additional Services Budget, as defined above, for the period May 1, 2026 – June 30, 2027. Payment for the Operational Services Budget shall be made by advance payment upon execution of this agreement and provision of an invoice for services. Payment for items in the Additional Services Budget shall be made as expenditures are approved by MKSOA and UH, each through their respective delegation of authority and approval process, upon presentation of approved invoices.

**IV. Termination**

**A. Termination – No Fault Changes in Circumstances**

In the event there is a substantial change in circumstance or circumstances beyond the control of the Parties that were unknown or unanticipated when this Agreement was signed by the Parties that makes proceeding with this Agreement, in whole or in part, infeasible (“Determination of Infeasibility”), MKSOA or UH may terminate this Agreement, in whole or in part. In the event of a Determination of Infeasibility, the Parties may attempt to address the change in circumstance in a mutually acceptable fashion by extending deadlines, revising goals, revising budgets, or otherwise. If the Parties are unable to mutually agree on a course of action, upon thirty (30) days’ prior written notice to the other Party, MKSOA or UH may terminate this Agreement in whole or in part.

**B. Termination for Cause**

Anything herein to the contrary notwithstanding, MKSOA or UH may terminate this Agreement at any time if the other Party shall default in the performance of its obligations under this agreement and shall fail to cure the default within thirty (30) days after receiving written notice of the default.

**C. Termination for Convenience**

MKSOA or UH may terminate this Agreement in whole, or in part, for convenience (“**Termination for Convenience**”). Any such termination shall be effected by delivery to the other Party of a written notice of termination specifying the extent to which the performance of the work under the Agreement is terminated, and the date upon which such termination becomes effective. Upon receipt of the notice, UH shall immediately discontinue all services affected by this Agreement. UH and MKSOA will continue to provide those services required for joint management of the Mauna Kea lands under other agreements and plans.

**V. Miscellaneous**

**A. Notices**

Any notice given or made pursuant to this Agreement shall be in writing and shall be deemed given if (a) delivered personally or by courier, (b) sent by overnight express delivery, or (c) mailed by registered or certified mail (return receipt requested), postage prepaid, to a party at its respective address set forth below (or at such other address as shall be specified by the party by like notice given to the other party):

If to MKSOA:                      Mauna Kea Stewardship and Oversight Authority  
688 Kino‘ole Street, #212  
Hilo, Hawai‘i 96720  
Attn: Executive Director, John De Fries

If to UH:                              University of Hawai‘i  
2444 Dole Street  
Bachman Hall 200  
Honolulu, Hawai‘i 96822  
Attn: President, Wendy Hensel

All such notices shall be deemed given on the date of personal or local courier delivery, delivery to overnight courier or express delivery service, or deposit in the United States Mail, and shall be deemed to have been received (i) in the case of personal or local courier delivery, on the date of such delivery, (ii) in the case of delivery by overnight courier or express delivery service, on the date following dispatch, and (iii) in the case of mailing, on the date specified in the return receipt therefor.

**B. Counterpart**

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one instrument.

**C. Interpretation and Governing Law**

This Agreement shall not be construed against the party who prepared it but shall be construed as though prepared by both Parties. This Agreement shall be governed by and construed in accordance with the laws of the State of Hawai'i. Any lawsuit to interpret or to enforce the terms of this Agreement or to collect damages as a result of any breach of this Agreement shall be filed in a Hawai'i state court in the City and County of Honolulu.

**D. Severability**

If any portion of this Agreement is declared by a court of competent jurisdiction to be invalid or unenforceable such portion shall be deemed severed from this Agreement and the remaining parts shall continue in full force as though such invalid or unenforceable provision had not been part of this Agreement.

**E. Entire Agreement**

Unless otherwise provided herein, this Agreement constitutes the final understanding and agreement between the Parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the Parties, whether written or oral. This Agreement may be amended, supplemented or changed only by a writing signed or authorized by or on behalf of the Party to be bound thereby.

**F. Non-Liability**

No member, official, employee, agent, or consultant of the MKSOA or of any affiliate of the MKSOA shall be personally liable to UH, or any successor in interest or person claiming by, through or under UH, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

No member, official, regent, employee, agent, or consultant of UH or of any affiliate of UH shall be liable to MKSOA, or any successor in interest or person claiming by, through or under MKSOA, in the event of any default or breach, or for or on account of any amount which may be or become due, or in any claim, cause or obligation whatsoever under the terms of this Agreement.

**G. Waivers**

The failure of either Party to insist in any one or more cases upon the strict performance of any of the other Party's obligations under this Agreement or to exercise any right or remedy herein contained shall not be construed as a waiver or a relinquishment for the future of such obligation, right or remedy. No waiver by either Party of any provision of this Agreement shall be deemed to have been made unless set forth in writing and signed by that Party.

**H. Successors**

The terms, covenants, agreements, provisions, and conditions contained herein shall bind and inure to the benefit of the Parties hereto, their successors and assigns.

**I. Headings**

The headings in this Agreement are inserted for convenience only and shall not be used to define, limit or interpret the scope of this Agreement or any of the obligations herein. Unless otherwise indicated, references to sections are references to sections of this Agreement.

**J. Construction**

Whenever in this Agreement a pronoun is used, it shall be construed to represent either the singular or the plural, either the masculine or the feminine, as the case shall demand.

**K. Time of Performance**

- (a) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., Honolulu, Hawai'i time, on the performance or cure day.
- (b) Weekends and Holidays. A performance date that falls on a Saturday, Sunday or state holiday is deemed extended to the next working day.
- (c) Days for Performance. All periods for performance specified in this Agreement in terms of days shall be calendar days, and not business days, unless otherwise expressly provided in this Agreement.

**L. Amendment**

This Agreement may not be terminated, amended or modified except by a written instrument executed by the Parties.

**M. Attorney's Fees**

Should any litigation be commenced between the Parties hereto concerning this Agreement, the subject matter of this transaction, or the rights and duties of either in relation thereto, each Party shall pay their own attorneys' fees and costs of litigation.

**N. No Party Deemed Drafter**

The Parties agree that neither party shall be deemed to be the drafter of this Agreement. In the event this Agreement is ever construed by a court of law, such court shall not construe this Agreement or any provision hereof against either Party as the drafter of this Agreement.