

CONTRACT FOR PROFESSIONAL SERVICES

THIS Contract made as of the 1st day of January, 2013 in the Territory of the Virgin Islands, by and between the Government of the Virgin Islands, **DEPARTMENT OF PROPERTY AND PROCUREMENT**, on behalf of the **DEPARTMENT OF HUMAN SERVICES**, with offices located at Knud Hansen Complex - Building A, 1303 Hospital Ground, Charlotte Amalie, VI 00802, (hereinafter referred to as "Government") and **UnitedHealthCare Insurance Company**, located at 185 Asylum Avenue, Hartford, CT 06103 (hereinafter referred to as "Contractor") and is executed pursuant to the terms and conditions set forth herein.

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor as set forth in this Contract;

WHEREAS, the Contractor represents that it has been approved by the Centers for Medicare and Medicaid Services ("CMS") as a sponsor of a Medicare Part D Prescription Drug Plan ("Part D PDP") in thirty-four (34) Medicare Part D regions established by CMS, including the U.S. Virgin Islands. UnitedHealthCare Insurance Company has obtained a CMS waiver under Section 1860D-12(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, PL 108-173 ("the Act"), to operate as a Part D PDP sponsor in all 50 states, Puerto Rico, and the U.S. Virgin Islands.

WHEREAS, the Contractor is the Sole Source Provider of a Medicare Part D Prescription Drug Plan ("Part D PDP") approved by CMS as a Part D PDP Sponsor for the U.S. Virgin Islands.

WHEREAS, Contractor's UnitedHealthCare Insurance Company Part D PDP is branded AARP MedicareRx. AARP Medicare Rx Plans carry the AARP name, and United Healthcare pays a royalty fee to AARP for use of the AARP intellectual property.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and intending to be legally bound by this written instrument, the parties hereto do covenant and agree as follows:

1. SERVICES

The Contractor will provide the services described in Addendum I attached hereto and made part hereof.

2. TERMS

Upon the execution of this Contract by the Governor of the U.S. Virgin Islands, this contract shall commence on January 1, 2013 and shall terminate on December 31, 2014. The Government reserves the right to extend and/or renew this contract for two (2) additional one (1) year periods.

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3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay the Contractor the sum not to exceed **THREE MILLION and 00/100 (\$3,000,000.00) DOLLARS** in accordance with the provisions set forth in Addendum II (Terms of Compensation) attached hereto.

The Contractor will be reimbursed by the Government for the specific types of pass-through expenses set out in Addendum I (Scope of Services) attached hereto. Claims for such reimbursements shall be made monthly. The maximum amount for such reimbursements shall not exceed the amount identified in the reimbursement schedule set out in Addendum I for the full term of this contract.

The Contractor shall otherwise be compensated and reimbursed through the receipt of monthly premiums, co-payments and deductibles pursuant to Addendum 1.

4. TRAVEL EXPENSES

In addition to the compensation for services as specified in Paragraph 3 (Compensation) above, the Government agrees to pay documented transportation, subsistence, lodging and other travel expenses, while in travel status, for trips which have been authorized in writing, in advance, by the Government. These costs shall be advanced or reimbursed on the same basis as is applicable to non-contract employees of the Government, or as agreed to by an addendum to this Contract, however, said costs shall not exceed \$N/A.

5. RECORDS

The Contractor, when applicable, will present documented, precise financial report summarizing expenditures under this contract.

6. PROFESSIONAL STANDARDS

The Contractor agrees to maintain the professional standards applicable to its profession and to consultants doing business in the United States Virgin Islands.

7. DOCUMENTS, PRINTOUTS, ETC.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived there from and pertaining to this Contract shall become the property of the Government and shall be turned over to it at the termination of this Contract. The above described materials shall not be used by Contractor or by any other person or entity except upon the written permission of the Government. The above described materials shall not include contractor's pricing or other proprietary data, or information which contractor is required by law to maintain.

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8. LIABILITY OF OTHERS

Nothing in this Contract shall be construed to impose any liability upon Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make Government liable to any such persons, firms, associations, or corporations for the acts, omissions, liabilities, obligations and taxes of Contractor or whatsoever nature, including but not limited to unemployment insurance and social security taxes for Contractor, its servants, agents or independent contractors.

9. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Government.

10. INDEMNIFICATION

Contractor agrees to investigate, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected to the services to be performed by Contractor under this Contract and arising from any cause, except the sole negligence of Government.

11. INDEPENDENT CONTRACTOR

The Contractor shall perform this Contract as an independent Contractor and nothing herein contained shall be construed to be inconsistent with this relationship status.

12. GOVERNING LAW

This Contract shall be governed by the laws of, and shall remain within the jurisdiction of, the United States Virgin Islands.

13. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of this Contract, including its Addenda, shall be valid or of any force or effect unless made in writing, signed by the parties hereto or their duly authorized representatives, and specifying with particularity the nature and extent of such waiver, modification or amendment. Any such waiver, modification or amendment in any instance or instances shall in no event be construed to be a general waiver, modification or amendment of any of the terms, conditions or provisions of this Contract, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writings or writings.

14. ENTIRE AGREEMENT

This Contract constitutes the entire agreement between the parties hereto, and all prior understanding or communications, written or oral, with respect to the services which are the subject matter of this Contract, are merged herein.

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15. RIGHT TO WITHHOLD

If work under this Contract is not performed in accordance with the terms hereof, including any addenda hereto, Government will have the right, upon thirty (30) days prior written notice to Contractor, to withhold out of any payment due to Contractor, such sums as Government may deem ample to protect it against loss or to assure payment of claims arising there from, and, at its option, Government may apply such sums in such manner as Government may deem proper to secure itself or to satisfy such claims. Government will immediately notify the Contractor in the event that it elects to exercise its right to withhold.

No such withholding or application shall be made by Government if and while Contractor gives satisfactory assurance to Government that such claims will be paid by Contractor or its insurance carrier, if applicable in the event that such contest is not successful.

16. CONDITION PRECEDENT

This Contract shall be subject to the availability and appropriation of funds and to the approval of the Governor.

17. TERMINATION

Either party will have the right to terminate this Contract with or without cause on **NINETY (90)** days written notice to the other party specifying the date of termination.

18. PARTIAL TERMINATION

The performance of work under this Contract may be terminated by the Government in part, whenever the Government shall deem such termination advisable. This partial termination shall be effected by delivering to the Contractor a Notice of Partial Termination specifying the extent to which the term and/or duties under this Contract are terminated and the date upon which such termination becomes effective. The Contractor shall be entitled to receive compensation for services provided up to and through the date of termination, including payment for the period of the **NINETY (90)** day notice.

19. NON-DISCRIMINATION

No person shall be excluded from participating in, be denied the proceeds of, or be subject to discrimination in the performance of this Contract on account of race, creed, color, sex, religion, disability, or national origin.

20. CONFLICT OF INTEREST

- (a) Contractor covenants that it (includes owners, partners, directors, officers, or primary stockholders) has no interest and will not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.
- (b) Contractor further covenants that it is:
 - (1) not a territorial officer or employee (i.e., the Governor, Lieutenant Governor, member of the Legislature or any other elected territorial official; or an officer or employee of the legislative, executive or judicial branch of the Government or any agency, board, commission or independent instrumentality of the Government, whether compensated on a salary, fee or contractual basis); or

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- (2) a territorial officer or employee and, as such, has:
- (i) familiarized itself with the provisions of Title 3, Chapter 37, Virgin Islands Code, pertaining to conflicts of interest, including the penalties provision set forth in Section 1108 thereof; and
 - (ii) not made, negotiated or influenced this contract, in its official capacity; and
 - (iii) no financial interest in the contract as that term is defined in Section 1101, (1) of said Code chapter.

21. EFFECTIVE DATE

The effective date of this Contract shall be the day of execution of the contract by the Governor.

22. NOTICE

Any notice required to be given by the terms of this Contract shall be deemed to have been given when the same is sent by certified mail, postage prepaid or personally delivered, addressed to the parties as follows:

Government: **Christopher E. Finch**
Commissioner
Department of Human Services
Knud Hansen Complex, Building A
1303 Hospital Ground
St. Thomas, VI 00802
Attention: Warren T. Bush
Contracts Administrator
Telephone: (340) 774-0930 Ext. 4103
Fax: (340) 777-1028

cc: **Lynn A. Millin Maduro**
Commissioner
Department of Property & Procurement
Building No. 1, Sub Base, Third Floor
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-0820
Fax: (340) 777-9587

Contractor: **UnitedHealthcare Insurance Company**
C/O Laine Crabtree
Account Manager-Medicare Part D
United Healthcare Medicare & Retirement
9800 Healthcare Lane
Minnetonka, MN 55343
Telephone: (952) 542-4201
Fax: (952) 931-4251

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23. LICENSURE, PERMITS AND INSURANCE

Contractor covenants that it has:

- (a) obtained all of the applicable licenses or permits, permanent, temporary or otherwise as required by Title 27 of the Virgin Island Code; and
- (b) familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations.

The Contractor shall also provide the Government with proof of valid licenses and /or permits, and proof of general liability insurance coverage of not less than **ONE MILLION and 00/100 (\$1,000,000.00) DOLLARS** per occurrence and **THREE MILLION (\$3,000,000.00) Dollars** in the General Aggregate for itself and/or its employees, agents, subcontractors and/or independent contractors; and Professional Liability Insurance in limits of not less than **THREE MILLION (\$3,000,000.00) DOLLARS** per claim, and **FIVE MILLION (\$5,000,000.00) DOLLARS** in the Annual Aggregate, for the entire period of this Agreement. In the event that any of the above existing coverage expires before the end of this Agreement, Contractor shall furnish proof of the renewal of coverage within **TEN (10) days** after the termination of the existing coverage.

24. FALSE CLAIMS

Contractor warrants that is shall not, with respect to this contract, make or present any claim upon or against the Government of the Virgin Islands, or any officer, department, board, commission, or other agency thereof, knowing such claim to be false, fictitious, or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under Virgin Islands law.

25. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this contract is funded, in whole or in part, by federal funds. Contractor warrants that it shall not, with respect to this Contract, make or present any claim knowing such claim to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious, or fraudulent claim is a federal offence.

26. DEBARMENT CERTIFICATION

By execution of this contract, the Contractor certifies that it is eligible to receive contract awards using federally appropriated funds and that it has not been suspended or debarred from entering into contracts with any federal agency. The contractor shall include this provision in each of its sub-contracts hereunder and shall furnish its sub-contractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON-PROCUREMENT." In the event the contractor or sub-contractor misrepresents its eligibility to receive contract awards using federal funds, the contractor or sub-contractor agrees that it shall not be entitled to payment for any work performed under this contract or sub-contract and that the contractor or sub-contractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made. If, during the term of this contract, the contractor shall become ineligible to receive contract awards using federal funds, this contract shall be terminated forthwith for cause and the contractor shall not be entitled to payment for any work performed under this contract or sub-contract after the effective date of such ineligibility.

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

WITNESSES:

**GOVERNMENT OF THE VIRGIN ISLANDS
DEPARTMENT OF HUMAN SERVICES**

Harold Z. Bush

12/18/2012
Date

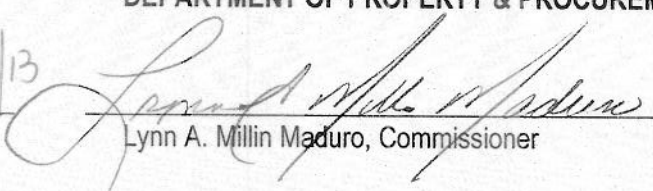

Christopher E. Finch, Commissioner

12/18/2012
Date

DEPARTMENT OF PROPERTY & PROCUREMENT

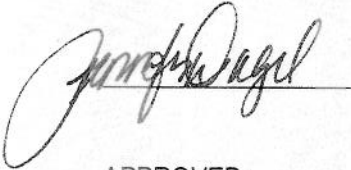
Lisa Mill

1/17/13
Date

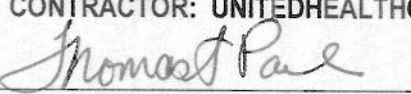

Lynn A. Millin Maduro, Commissioner

1/17/13
Date

CONTRACTOR: UNITEDHEALTHCARE INSURANCE COMPANY

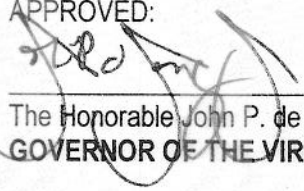


12/2/12
Date


Thomas Paul, Vice President, UHIC

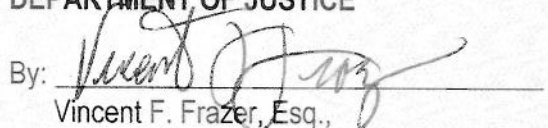
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APPROVED:


The Honorable John P. de Jongh, Jr.
GOVERNOR OF THE VIRGIN ISLANDS

2/7/13
Date

**APPROVED TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE**

By: 
Vincent F. Frazer, Esq.,
Attorney General of the U.S Virgin Islands

2/5/13
Date:

Account Code No. _____

MED No.: _____

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