

## CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 1<sup>st</sup> day of July, 2017, 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 GESC/Health Insurance Board of Trustees (hereinafter referred to as "Government") and The Gehring Group, Inc. (hereinafter referred to as "Contractor").

### WITNESSETH:

WHEREAS, the GESC/Virgin Islands Health Insurance Board of Trustees (the "Board") is in need of the services of a Contractor to assist and advise in benefit plan administration, which duties and responsibilities are more particularly described in Addendum I (Scope of Work) attached hereto; and

WHEREAS, pursuant to 31 V.I.C. § 236, the Government solicited the required services through RFP No. 010-2017(P); and

WHEREAS, Contractor was recommended by the Evaluation Committee and selected; and

WHEREAS, the Contractor represents that it is willing and capable of providing such services;

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 (Scope of Work) attached hereto and made a part of this contract.

### 2. TERM

Upon the execution of this Contract by the Governor of the U.S. Virgin Islands, the initial term of this Contract shall be effective from July 1, 2017 through June 30, 2019 ("Initial Term"). After the initial term, this contract may be renewed on the same terms and conditions for one (1) additional year at the sole discretion of the Government. Any such renewal or extension shall be contingent upon the satisfactory performance of the Contractor and shall be subject to the availability and appropriation of funds. The Government shall give written notice to the Contractor of such extension and or renewal not less than sixty (60) days prior to the expiration of the Initial Term (hereinafter "Renewal Term").

### 3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Work), agrees to pay Contractor a *sum not to exceed* TWO HUNDRED EIGHTY-FIVE THOUSAND AND 00/100 DOLLARS (\$285,000.00)

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per annum in accordance with the provisions set forth in Addendum II (Compensation) attached hereto and made a part of this contract.

#### **4. TRAVEL EXPENSES**

Inclusive of 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 and expenses shall not exceed N/A (\$ N/A).

#### **5. RECORDS**

The Contractor when applicable, will present documented precise records of time and/or money expended 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 therefrom 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.

#### **8. LIABILITY OF OTHERS**

Nothing in this Contract shall be construed to impose any liability upon the 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 of 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 indemnify, defend and hold harmless Government from and against any and all loss, damage, liability, claims, demands, detriments, cost, charges and expense (including attorney's fees) and causes of action of whatsoever character which Government may incur, sustain or be subjected to, arising out of or in any way connected

to the services to be performed by 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 or status.

#### **12. GOVERNING LAW**

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

#### **13. WAIVERS AND AMENDMENTS**

No waiver, modification or amendment of any term condition or provision of this Contract 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 writing or writings.

#### **14. ENTIRE AGREEMENT**

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

#### **15. RIGHT TO WITHHOLD**

If work under this Contract is not performed in accordance with the terms hereof, Government will have the right 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 therefrom, 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 writing 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.

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## **17. TERMINATION**

Either party will have the right to terminate this Contract with or without cause on THIRTY (30) 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 payment for services provided to the date of termination, including payment for the period of the THIRTY (30) 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 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

(2) a territorial officer or employee and, as such, has:

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

## **21. CONFIDENTIALITY**

(a) The Contractor agrees to preserve the confidentiality of any information it receives from the Government. Contractor agrees, pursuant to 45 CFR 164.502(e), to abide by the "business associate agreement," as attached in Addendum III, whereby the Contractor



agrees to take appropriate safeguards to maintain the privacy and security of any protected health information that it may be privileged to in performing its services under this Contract.

(b) All documents, data, reports, and information of any kind and in any form provided to Contractor in the performance of this Contract shall be kept confidential unless written permission is granted by the Government for its release. Contractor is not required to obtain permission from the Government to disclose documents which it is required by law to disclose; provided, however, that Contractor agrees, that, in such a situation, it shall give the Government written notice prior to releasing such information, which written notice shall state the legal basis for the disclosure of the information and shall give the Government sufficient prior notice to, if it determines to do so, challenge the legal basis for the request of information. Any publicity given to the Government's health insurance program or services provided herein, including, but not limited to, notices, information, pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Contractor, shall identify the Government as the sponsoring agency and shall not be released without prior written approval from the Government.

(c) The parties expressly agree that the provisions and obligations under this Section shall survive expiration or termination of this Contract.

## **22. RETENTION OF RECORDS AND ACCESS BY GOVERNMENT AGENCIES**

Contractor, including its employees and subcontractors, shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred under this Contract and make such materials available at their respective offices at all reasonable times, for inspection by authorized officials of the United States Virgin Islands, and concerned Federal agencies. Each subcontract shall include a provision containing the conditions of this Section. This documentation described in this Section shall be retained and preserved for a period of SIX (6) years from the date of expiration or termination of this Contract.

In this regard, the documentation resulting from the services under this Contract will be reviewed by the Government and these agencies, and Contractor will be required

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to make any corrections required by these agencies as a result of their evaluations, subject to the terms of this Contract. The Government will give Contractor reasonable notice of at least THIRTY (30) workdays for any inspection of documentation as set forth herein.

### **23. 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**

Lloyd Bough, Jr.  
Commissioner  
Department of Property and Procurement  
Sub Base, Building No. 1  
St. Thomas, Virgin Islands 00802

Beverly A. Joseph  
Chairperson  
GESC / Health Insurance Board of Trustees  
c/o Chief, Group Health Insurance  
Division of Personnel  
GERS Complex, 3<sup>rd</sup> Floor  
3438 Kronprindsens Gade  
St. Thomas, U.S. Virgin Islands 00802

#### **CONTRACTOR**

Kurt Gehring  
Title: President  
The Gehring Group, Inc.  
4200 Northcorp Parkway, Suite 185  
Palm Beach Gardens, Florida 33410

### **24. LICENSURE**

The Contractor covenants that it has:

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

### **25. INSURANCE**

Contractor shall provide evidence of professional liability insurance in an amount not less than TWO MILLION DOLLARS AND 00/100 DOLLARS (\$2,000,000) covering the services under this Contract. Said professional liability insurance shall be

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on a "Claims Basis." This Contract is subject to Contractor providing the Government with a Certificate of Insurance evidencing the professional liability insurance coverage described above. Said Certificate of Insurance shall (i) identify Contractor as the "Named Insured"; (ii) reference, by policy number, the insurance policy, or policies, providing the required professional liability coverage and state the coverage limits under the subject policy, or policies; (iii) identify the Government as the "Certificate Holder."

Contractor shall provide evidence of Worker's Compensation coverage verifying that the Gehring Group, Inc. employees and agents are covered by Workers' Compensation Insurance.

Contractor shall provide public liability insurance and shall name the Government of the Virgin Islands as "Additional Insured." The public liability insurance shall have a minimum limit of not less than ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) for any one occurrence for death or personal injury and ONE HUNDRED THOUSAND AND 00/100 DOLLARS (\$100,000.00) for any one occurrence for property damage.

## **26. OTHER PROVISIONS**

Addenda attached hereto are a part of this Contract and are incorporated herein by reference. Addendum I (Scope of Services), Addendum II (Compensation), and Addendum III (Business Associate Agreement) are incorporated into and made a part of this Contract. In the event of a conflict between the provisions of any Addendum to this Contract and the terms and provisions of this Contract, the terms and provisions of this Contract shall prevail.

## **27. CONTINGENT FEE PROHIBITED**

Contractor warrants that it has not employed or retained any individual, corporation, partnership or other entity, other than a bona fide employee or agent working for Contractor to solicit or secure this Contract, and that it has not paid or agreed to pay any individual, corporation, partnership or other entity, other than a bona fide employee or agent any fee or other consideration contingent on the making of this Contract.

## **28. 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 subcontracts hereunder and shall furnish its subcontractors with the current "LIST OF PARTIES EXCLUDED FROM FEDERAL PROCUREMENT OR NON PROCUREMENT." In the event the Contractor or any subcontractor misrepresents its eligibility to receive contract awards using federal funds, the Contractor or subcontractor agrees that it shall not be entitled to payment for any work performed under this contract or any subcontract and that the Contractor or subcontractor shall promptly reimburse the Government of the Virgin Islands for any progress payments heretofore made.

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## 29. FALSE CLAIMS

Contractor warrants that it 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 claims to be false, fictitious or fraudulent. Contractor acknowledges that making such a false, fictitious or fraudulent claim is an offence under Virgin Islands law.

## 30. 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.

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

### WITNESSES:

Maurice G. [Signature]  
[Signature]

[Signature]  
[Signature]

### GOVERNMENT OF THE VIRGIN ISLANDS

[Signature]  
Beverly A. Joseph, Chairperson  
GESC / Health Insurance Board of Trustees

8-17-17  
Date

[Signature]  
Lloyd T. Bough, Jr., Commissioner  
Department of Property and Procurement

14/3/17  
Date

### CONTRACTOR

Valerie Ensinger  
Cindy A. Thompson

[Signature]  
Kurt N. Gehring, President  
The Gehring Group, Inc.

08/01/2017  
Date

(Corporate seal, if Contractor is a corporation)



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[Signature]



**Kenneth E. Mapp**  
GOVERNOR OF THE VIRGIN ISLANDS

APPROVED AS TO LEGAL SUFFICIENCY  
DEPARTMENT OF JUSTICE BY: *[Signature]*

**PURCHASE ORDER NO.**

### CERTIFICATE OF APPROVAL

I hereby certify that this is a true and exact copy of Contract No. \_\_\_\_\_ entered into between the Department of Property and Procurement and THE GEHRING GROUP, INC.

**Lloyd T. Bough, Jr., Commissioner**  
Department of Property and Procurement

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