

CONTRACT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made this 28th day of March, 2018, 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 Finance (hereinafter referred to as "Government") and Conduent HR Consulting, LLC, formally Buck Consultants, LLC (hereinafter referred to as "Contractor")

WITNESSETH:

WHEREAS, the Government is in need of the services of a Contractor to assist in an actuarial valuation of liabilities for post-employment benefits (other than pension), which duties and responsibilities are more particularly described in Addendum I (Scope of Service) attached hereto; 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 services described in Addendum I (Scope of Services) attached hereto and made a part of this Contract.

2. TERM

This Contract shall commence upon the execution of this Contract by the Governor of the Virgin Islands and shall terminate Three Hundred Sixty-Five (365) days thereafter.

3. COMPENSATION

The Government, in consideration of the satisfactory performance of the services described in Addendum I (Scope of Services), agrees to pay Contractor, in accordance with the provisions of Addendum II (Compensation) to this Contract, a fixed fee sum of **SIXTY-NINE THOUSAND DOLLARS (\$69,000.00)**.

4. TRAVEL AND OTHER EXPENSES

The Government shall not request any travel, and Contractor shall not travel, in connection with this Agreement. Accordingly, there will be no travel or expenses allowed under this Agreement.

5. RECORDS

P011D0FT18

Contract Number: _____

BS 

Initial

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. Notwithstanding anything in this Contract to the contrary, Contractor shall not be liable in the event the above described material is used by a third party, provided such use is without Contractor's knowledge, without the Contractor's participation, and not the result of the Contractor's negligence. Further, notwithstanding anything in this Contract to the contrary, Contractor shall retain ownership rights to all materials in which it has a legally recognized proprietary interest, including software and working files.

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. Limitation on Liability. Contractor will be responsible to Government only for Contractor's negligence, fraud or willful misconduct in the performance of Services under this Agreement and for breach of the limited warranty set forth in this Agreement. Contractor will not be responsible to Government for Contractor's (i) failure to perform any Services other than those agreed to pursuant to this Agreement or; (ii) actions or failures to act based on instructions or directions from Government or from its agents; or (iii) failure to provide the services listed on Addendum I primarily because of (a) any error or omission in the data, documents or information provided by or on behalf of Government or (b) any event of force majeure.

Notwithstanding any other provision hereof or of applicable law, Contractor and Government agree that the liability of Contractor in connection with the provisions of the services pursuant hereto will be limited to direct losses Government suffers as a result of the negligence and/or errors or omissions of Contractor, up to, but in no event to exceed, THREE HUNDRED THOUSAND DOLLARS (\$300,000.00). For the avoidance of doubt, any alleged error spanning more than one contractual period is nevertheless limited by this amount, for all claims in the aggregate, regardless of the legal theory of damages (as listed individually in the

P011D0FT18

Contract Number:

BS 

Initial

following sentence in the last parenthetical therein). Notwithstanding anything to the contrary contained in this agreement, contractor shall be liable to the government, the plan administrator (if applicable), to the plan (if applicable) or to any beneficiary of the services hereunder, for indirect, incidental, exemplary, special, punitive or consequential damages (including, without limitation, damages relating to loss of profits, income, goodwill or data) arising out of performance or non-performance hereunder without regard to the legal theory of such damages, (whether such damages are based upon breach of contract, breach of warranty, indemnity, negligence, gross negligence, strict liability or otherwise) up to, but in no event to exceed, the amount of the initial annual fee paid to Contractor pursuant hereto.

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 third-party 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 to be performed by Contractor under this Contract and arising from any cause, to the extent caused by the Contractor's negligence.

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,

P011DOFT18
Contract Number:

BS [Signature]
Initial

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 a cause of action giving rise to a potential loss or claim against the Government 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 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

P011D0FT18

Contract Number:

BS 

Initial

(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. 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

Lloyd T. Bough, Jr.
Commissioner
Department of Property and Procurement
Sub Base, Building No. 1, Third Floor
St. Thomas, VI 00802

Valdamier O. Collens
Commissioner
Department of Finance
2314 Kronprindsens Gade
St. Thomas, V.I. 00802

CONTRACTOR

Brian Stitzel
Global Health Practice Leader

P011D0FT18

Contract Number:

BS 

Initial

Conduent HR Consulting, LLC
500 Plaza Drive
Secaucus, NJ 07096

23. 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.

24. OTHER PROVISIONS

Addendums I, II, and III attached hereto are a part of this Contract and are incorporated herein by reference.

25. 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.

26. 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.

27. 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.

28. INVOICES

PO11D0FT18
Contract Number:

BS [Signature]
Initial

Pursuant to the provisions of Addendum II to this Contract, Contractor shall submit monthly invoices documenting services rendered during the applicable period and expenses for which Contractor seeks reimbursement under the Contract.

29. 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.

P011D0FT18

Contract Number:

BS 

Initial

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

WITNESSES:

GOVERNMENT OF THE VIRGIN ISLANDS

[Signature]

[Signature]
Valdamier O. Collens, Commissioner
Department of Finance

2/27/18
Date

[Signature]

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

3/29/18
Date

CONTRACTOR

[Signature]

[Signature]
Brian Stitzel, Global Health Practice Leader
Conduent HR Consulting, LLC

2/22/18
Date

APPROVED:

[Signature]

Date: 03-28-18

Kenneth E. Mapp
GOVERNOR OF THE VIRGIN ISLANDS

APPROVED AS TO LEGAL SUFFICIENCY

DEPARTMENT OF JUSTICE BY: [Signature] Date 3/22/18

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 on behalf of the Department of Finance and

2011DOFT18
Contract Number:

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