



OPCMR

**EXERCISE OF RENEWAL OPTION
GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS**

DEPARTMENT OF PROPERTY & PROCUREMENT

CONTRACT NO.: PC096DHS15

DATED: September 30, 2015

EXERCISE OF RENEWAL OPTION

Contractor	Description of Scope of Work/Services
REDMANE TECHNOLOGY, LLC 8614 W. Catalpa Avenue, Suite 1001 Chicago, Illinois 60656	To maintain and operate a fully integrated eligibility & enrollment system (IE&E) for the Territory of the US Virgin Islands – year 2 of the maintenance and operation period.

Pursuant to the renewal option provision of Contract No. PC096DHS15, and subject to the appropriation and allotment of necessary funds, notice is hereby given that the Government of the U.S. Virgin Islands, **Department of Human Services** exercises its option to renew and does hereby renew the aforementioned contract for the period **March 31, 2022 to March 30, 2023**, at the stipulated cost therein.

All the terms, covenants, and conditions of the contract affected shall continue in full force and effect. A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

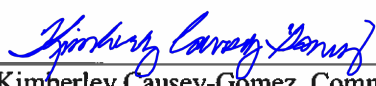
Please acknowledge receipt and acceptance hereby signing and returning to:

The Department of Property and Procurement
Sub Base, Building No. 1, Third Floor
St. Thomas, Virgin Islands 00802

ACKNOWLEDGMENT & ACCEPTANCE:

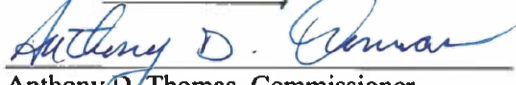
GOVERNMENT OF THE VIRGIN ISLANDS


Anthony J. Lakier, President
Redmane Technology, LLC


Kimberley Causey-Gomez, Commissioner
Department of Human Services

DATE: March 24, 2022

DATE: 03/24/2022


Anthony D. Thomas, Commissioner
Department of Property & Procurement

DATE: 3/24/2022

Renewal No.: P072DHST22



OPCMR

**EXERCISE OF RENEWAL OPTION
GOVERNMENT OF
THE UNITED STATES VIRGIN ISLANDS**

DEPARTMENT OF PROPERTY & PROCUREMENT

CONTRACT NO.: PC096DHS15

DATED: September 30, 2015

EXERCISE OF RENEWAL OPTION

Contractor

Description of Scope of Work/Services

REDMANE TECHNOLOGY, LLC	TO MAINTAIN AND OPERATE A FULLY INTEGRATED ELIGIBILITY & ENROLLMENT SYSTEM (IE&E) FOR THE TERRITORY OF THE US VIRGIN ISLANDS
-------------------------	--

Pursuant to the renewal option provision of Contract No. **PC096DHS15**, and subject to the appropriation and allotment of necessary funds, notice is hereby given that the Government of the U.S. Virgin Islands, **Department of Human Services** exercises its option to renew and does hereby renew the aforementioned contract for the period **March 31, 2021 to March 30, 2022**, at the stipulated cost therein.

All the terms, covenants, and conditions of the contract affected shall continue in full force and effect. A facsimile, electronic or digital signature on this Contract shall be deemed an original and binding upon the Parties hereto.

Please acknowledge receipt and acceptance hereby signing and returning to:

The Department of Property and Procurement
Sub Base, Building No. 1, Third Floor
St. Thomas, Virgin Islands 00802

ACKNOWLEDGMENT & ACCEPTANCE:

GOVERNMENT OF THE VIRGIN ISLANDS

Anthony J. Lakier, Chairman
RedMane Technology, LLC

DATE: 1/26/2021

Kimberley Causey-Gomez, Commissioner
Department of Human Services

DATE: 3/8/2021

Anthony D. Thomas, Commissioner
Department of Property & Procurement

DATE: 3/17/2021

Renewal No. P062DHST21

CONTRACT FOR PROFESSIONAL SERVICES

between

GOVERNMENT OF THE VIRGIN ISLANDS

DEPARTMENT OF PROPERTY AND PROCUREMENT

on behalf of the

DEPARTMENT OF HUMAN SERVICES

1303 Hospital Ground
Knud Hansen Complex, Building A
Charlotte Amalie, St. Thomas, VI 00802

and

RedMane Technology LLC
8614 W. Catalpa Avenue, Suite 1001
Chicago, Illinois 60656

Contract No. PC096DHS15

Initials: 

TABLE OF CONTENTS

	Page
1. SERVICES.....	4
2. TERM	6
3. COMPENSATION.....	6
4. TRAVEL EXPENSES	6
5. GOVERNING LAW	6
6. RECORDS, DOCUMENTS, PRINTOUTS, ETC.	7
7. PROFESSIONAL STANDARDS.....	8
8. LICENSURE AND PERMITS.....	8
9. LIABILITY OF OTHERS.....	8
10. ASSIGNMENT	9
11. INDEMNIFICATION.....	9
12. INSURANCE AND LIMITATION OF CONTRACTOR'S LIABILITY.....	9
13. EMPLOYMENT OF GOVERNMENT STAFF	11
14. [INTENTIONALLY DELETED]	12
15. INDEPENDENT CONTRACTOR.....	12
16. DRUG FREE WORKPLACE ACT.....	12
17. PRIVACY AND SECURITY STANDARDS	12
18. INTELLECTUAL PROPERTY/WORK PRODUCT OWNERSHIP	13
19. SECURITY AND DATA TRANSFERS.....	13
20. COMPUTING AND COMMUNICATION	13
21. CONTRACT A PUBLIC RECORD	14
22. PUBLIC INFORMATION.....	14
23. INITIATION OF WORK UNDER AGREEMENT.....	14

24.	CONTRACT AMENDMENTS	14
25.	CHANGES TO THE SCOPE OF SERVICES	15
26.	ADDITIONS TO PERMANENT STAFF.....	15
27.	FORCE MAJEURE	15
28.	SUBCONTRACTS	15
29.	TERMINATION	16
30.	NONDISCRIMINATION COMPLIANCE.....	18
31.	SMALL BUSINESSES, MINORITY-OWNED FIRMS, AND WOMEN'S BUSINESS ENTERPRISES UTILIZATION.....	18
32.	WORKER'S COMPENSATION	18
33.	LOBBYING	19
34.	WAIVERS AND AMENDMENTS	19
35.	HEADINGS AND TITLES	19
36.	ENTIRE AGREEMENT	19
37.	RIGHT TO WITHHOLD.....	19
38.	CONFLICT OF INTEREST	19
39.	NO GIFTS OR GRATUITIES	20
40.	DAMAGES.....	20
41.	NOTICE	21
42.	FALSE CLAIMS	22
43.	NOTICE OF FEDERAL FUNDING	22
44.	DEBARMENT CERTIFICATION.....	22
45.	PUBLICITY	23
46.	ORDER OF PRECEDENCE	23
	ADDENDUM I: <i>SCOPE OF SERVICES</i>	25

ADDENDUM II: <i>TERMS OF COMPENSATION</i>	36
ADDENDUM III: <i>BUSINESS ASSOCIATE AGREEMENT</i>	48
ADDENDUM IV: <i>IBM REQUIREMENTS</i>	56
ADDENDUM V: <i>INDEX OF DEFINITIONS AND ACRONYMS</i>	62

CONTRACT FOR PROFESSIONAL SERVICES

(Department of Human Services & RedMane Technology LLC)

THIS AGREEMENT ("Agreement") is made this ____ day of _____ 2015, 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**, Knud Hansen Complex - Building A, 1303 Hospital Ground, Charlotte Amalie, VI 00802, (hereinafter referred to as "Government"), and **REDMANE TECHNOLOGY LLC** of 8614 W. Catalpa Avenue, Suite 1001, Chicago, Illinois 60656 (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the Government is in need of the services of Contractor to implement an ongoing, fully integrated, state-of-the-art automated human services Integrated Eligibility and Enrollment ("IE&E") System for the territory of the United States Virgin Islands, and to provide maintenance and operations services thereafter; and

WHEREAS, the services of the Contractor shall include, but not be limited to the design, development and implementation of the U.S. Department of Health and Human Services' ("HHS") IE&E and related systems to ensure compliance with Centers for Medicare and Medicaid Services ("CMS"), United States Department of Agriculture Food and Nutrition Service ("FNS"), and Affordable Care Act eligibility requirements, which duties and responsibilities are more particularly described in **Addendum I, Scope of Services** attached hereto and made a part of this Agreement ("Addendum I"); and,

WHEREAS, the Contractor represents that it is willing to 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. Contractor and Government agree that this Agreement and any amendments to said Agreement, if any, are subject to approval by CMS, FNS, and the Governor of the United States Virgin Islands.

The Contractor agrees to implement a "Smart Transfer" of an integrated eligibility and enrollment system, based on IBM's Cúram software, a leading Customized off the Shelf ("COTS") system developed for servicing human services. The Contractor proposes to transfer the appropriate modules required to satisfy the needs detailed in the **RFP No. 037-2014 (Professional)** (the "RFP") but will, in addition, lay down the framework for future additions such as Child Welfare, as more particularly described in Addendum I. Although Contractor has the option of transferring modules from many different states that have implemented Cúram, the Contractor anticipates that the bulk of the Smart Transfer will be from the North Carolina FAST solution already implemented in the state of North Carolina (the "NC FAST solution"). In Contractor's view, based on its experience with many Cúram systems, the NC FAST solution best meets the needs of the Virgin Islands. Consideration will also be given to modules from Cúram implementations in Missouri and Arkansas. Any transfer of a solution from another state shall be subject to the Government's timely obtaining authorization for such transfer from such state. The Contractor will provide Cúram software owned by International Business Machines Corp. ("IBM"), pursuant to a Software and

Contract No. PC096DHS15

Initials: 

Services Special Option Agreement ("SSSO Agreement"), relevant provisions of which are included in this Agreement and are set forth in Addendum IV, IBM Requirements, attached hereto and made a part of this Agreement. The SSSO Agreement incorporates Special Item 132-33: Perpetual Software License (the "License"). Pursuant to the License, the Government will be licensee of IBM, entitled to software and support from IBM as set forth in the SSSO Agreement and the License. In addition, Contractor's mobile technology, originally developed for Child Welfare case workers, has been modified for Medicaid and included as part of the solution offered in this Agreement.

The Contractor agrees and acknowledges that this Agreement is in furtherance of the Government's' implementation of the CMS information technology system requirements for Medicaid, and is subject to the certain property rights provisions of the Code of Federal Regulations and a grant from CMS (the "Grant").

Contractor represents, warrants and covenants that it:

(a) Has all requisite power and authority to execute, deliver and perform its obligations under this Agreement, and the execution, delivery and performance of this Agreement by the Contractor have been duly authorized.

(b) There is no outstanding litigation, arbitrated matter or other dispute to which the Contractor is a party, which if decided unfavorably to the Contractor, would reasonably be expected to have a material adverse effect on the Contractor's ability to fulfill its obligations under this Agreement.

(c) The Contractor will comply with all laws applicable to its performance of the services and otherwise to the Contractor in connection with its obligations under this Agreement.

(d) All deliverables will be free from material errors and shall perform in accordance with the specifications set forth in Addendum I.

(e) The Contractor owns or has the right to use under valid and enforceable agreements, all intellectual property rights reasonably necessary for, and related to delivery of the services and provision of the deliverables as set forth in this Agreement, and none of the deliverables or other materials or technology provided by the Contractor to the Government will infringe upon or misappropriate the intellectual property rights of any third party.

(f) Each and all of the services shall be performed in a timely, diligent, professional and workpersonlike manner, in accordance with prevailing professional or technical standards applicable to such services, by qualified persons with the technical skills, training and experience to perform such services in the planned environment. At its own expense and without limiting any other rights or remedies of the Government hereunder, the Contractor shall re-perform any services that the Government has reasonably determined to be unsatisfactory, or the Contractor will refund that portion of the fees attributable to each such deficiency.

(g) The Contractor has or will provide adequate resources to fulfill its obligations under this Agreement.

Contract No. PC096 DHS15

Initials: 

2. TERM

This Agreement shall be effective from the later of date that it is executed by the Governor of the U.S. Virgin Islands and the Contractor is unconditionally authorized to proceed with the work hereunder, and shall have a term, beginning on such date, of five (5) years and (6) six months, consisting of a twenty four (24)-month implementation period; a six (6) month acceptance period; and a three (3)-year maintenance and operation period (the "Initial Term"). In addition, the Government may, at its sole option, extend the Agreement for two (2) additional one (1) year periods thereafter (each, a Renewal Term") by giving notice to the Contractor of such extension not less than nine (9) months prior to the expiration of the Initial Term in the case of renewal for the first one (1) year Renewal Term, and not less than six (6) months prior to the expiration of the first Renewal Term in the case of renewal for the second Renewal Term, at the rate indicated in **Addendum II, Terms of Compensation**, attached hereto and made a part of this Agreement ("Addendum II"), as adjusted in accordance with Section 3 below. The Initial Term and the Renewal Terms are collectively referred to herein as the "Term." If the implementation is completed in less than twenty four (24) months, the six (6) month acceptance period shall be extended by the number of days less than twenty four (24) months in which the implementation was completed, so that the Initial Term shall remain as five (5) years and (6) six months. If the implementation period is completed in more than twenty four (24) months, the six (6) month acceptance period shall remain six (6) months, and the maintenance and operation period shall be reduced by the number of days in excess of twenty four (24) months in which the implementation period was completed, so that the Initial Term will remain five (5) years and six (6) months.

3. COMPENSATION

The Government will pay Contractor up to a total compensation not to exceed **FORTY ONE MILLION ONE HUNDRED NINETY TWO THOUSAND TWO HUNDRED EIGHTY TWO DOLLARS (\$41,192,282)** for the Initial Term. The Government, in consideration of the satisfactory performance by the Contractor of the services described in Addendum I, agrees to pay the Contractor a sum not to exceed the above amount in accordance with the provisions, including payment schedule, set forth in Addendum II. For the Renewal Term, Contractor's compensation shall be the amounts set forth in Addendum II for Maintenance and Operations, adjusted to reflect the change in the Employment Cost Index for Total Compensation (not seasonally adjusted), private industry workers, service-providing industries published by the U.S. Bureau of Labor Statistics, from the date of execution of this Agreement until the commencement of the Renewal Term; provided that in the event such index is no longer available, the parties shall use such successor or alternative index that most closely resembles such index.

4. TRAVEL EXPENSES

All Contractor rates are fully inclusive of all travel and living costs as specified in Addendum II.

5. GOVERNING LAW

This Agreement shall be construed in accordance with, and in the order of the applicable provisions of, Title XIX of the Social Security Act, as amended, and regulations promulgated thereunder by HHS; any other applicable Federal statutes and regulations; and the laws of the United States Virgin Islands.

Contract No. PC096DHS15

Initials: 

6. RECORDS, DOCUMENTS, PRINTOUTS, ETC.

The Contractor, when applicable, will present documented, precise records of time and/or money expended under this Agreement. The Contractor shall preserve all books and records for at least five (5) years from date each statement is rendered.

All documents, books, records, instructional materials, programs, printouts and memoranda of every description derived therefrom prepared for the Government pursuant to this Agreement shall become the property of the Government and shall be turned over to it at the termination of this Agreement. 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 Federal Government reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes, the copyright in any work developed under a grant, sub-grant, or contract under a grant or sub-grant or any rights of copyright to which a contractor purchases ownership.

This Agreement is subject to, and incorporates by reference, 45 CFR 75.322 governing rights to intangible property. Intangible property includes but is not limited to: computer software; patents, inventions, formulae, processes, designs, patterns, trade secrets, or know-how; copyrights and literary, musical, or artistic compositions; trademarks, trade names, or brand names; franchises, licenses, or contracts; methods, programs, systems, procedures, campaigns, surveys, studies, forecasts, estimates, customer lists, or technical data; and other similar items. The Contractor may copyright any work that is subject to copyright and was developed, or for which ownership was purchased under this Agreement. The Contractor must deliver all intangible property, including but not limited to intellectual property, to the Government in a manner that ensures the CMS obtains a royalty-free, non-exclusive, and irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes, and to authorize others to do so. Federal purposes include the purpose of administering State exchanges under the Affordable Care Act of 2010. The Contractor is further subject to applicable regulations governing patents and inventions, including those issued by the U.S. Department of Commerce at 37 CFR Part 401.

In performance of this Agreement, the Contractor acknowledges that certain government data to which the Contractor may have access may contain individual Federal tax information, personal protected health information and other individually identifiable information protected by territorial or Federal law ("Government Data"). In addition to the provisions of this Section, the Contractor shall execute the HIPAA *Business Associate Agreement* incorporated into this Agreement at attached as **Addendum III**.

Before receiving or controlling Government Data, the Contractor will have an information security policy that protects its systems and processes and media that may contain Government Data from internal and external security threats and Government Data from unauthorized disclosure, and a copy of such policy has been provided to the Government. No Government Data will be stored, accessed from, or transferred to any location outside the United States.

The Contractor represents and warrants that, before receiving or controlling Government Data, it will have implemented and it shall maintain during the Term industry-standard administrative, technical, and physical safeguards reasonably designed to (i) ensure the security and confidentiality of Government Data; (ii) protect against any anticipated security threats or hazards to the security or integrity of the Government

Contract No. PC096DHS15

Initials: 

Data; and (iii) protect against unauthorized access to or use of Government Data. Such measures include, as applicable: (1) access controls on information systems, including controls to authenticate and permit access to Government Data only to authorized individuals and controls to prevent the Contractor employees from providing Government Data to unauthorized individuals who may seek to obtain this information (whether through fraudulent means or otherwise); (2) industry-standard firewall protection; (3) encryption of electronic Government Data while in transit from the Contractor networks to external networks; (4) industry-standard measures to store in a secure fashion all Government Data which shall include multiple levels of authentication; (5) dual control procedures, segregation of duties, and pre-employment criminal background checks for employees with responsibilities for or access to Government Data; (6) industry-standard measures to ensure that the Government Data shall not be altered or corrupted without the prior written consent of the Government; (7) industry-standard measures to protect against destruction, loss or damage of Government Data due to potential environmental hazards, such as fire and water damage; (8) staff training to implement the information security measures; and (9) monitoring of the security of any portions of the Contractor systems that are used in the provision of the services against intrusion on a twenty-four (24) hour a day basis.

7. 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. The personnel the Contractor assigns to perform the services shall be properly trained and qualified for services they are to perform. No costs or expenses of the Contractor associated with replacement or training of personnel shall be passed to the Government. Any unavailability of the Contractor personnel, discontinuity in the Contractor's project team or other Contractor personnel-related cause will not excuse the Contractor's failure to perform as specified in this Agreement. The Contractor agrees that personnel identified as key personnel in Addendum I ("Key Personnel") shall participate in the delivery of the services in the capacity indicated and the Contractor shall use commercially reasonable efforts to ensure that each of the Key Personnel stays assigned to the performance of the services until completed and that other assignments will not impair the ability of any Key Personnel to perform such services.

The Contractor will obtain a written confidentiality agreement from each subcontractor (if any) before that subcontractor provides service. No subcontracting will release the Contractor from its responsibility for its obligations under this Agreement. The Contractor will be responsible for the work and activities of each of its subcontractors, including compliance with the terms of this Agreement and for all payments to its subcontractors.

8. LICENSURE AND PERMITS

The Contractor covenants that it has familiarized itself with the applicable provisions of Title 27 of the Virgin Islands Code pertaining to professions and occupations, and has obtained all of the applicable licenses or permits, temporary or otherwise, as may be required under said statute(s) for the conduct of the Contractor's business in the United States Virgin Islands.

9. LIABILITY OF OTHERS

Nothing in this Agreement shall be construed to impose any liability upon the Government to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent

Contract No. PC096DHS15

Initials: 

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.

10. ASSIGNMENT

The Contractor shall not subcontract or assign any part of the services under this Agreement without the prior written consent of the Government, which consent shall not be unreasonably withheld.

11. INDEMNIFICATION

Each party shall defend the other and its officers and employees against all claims or suits arising in whole or in part from any act or omission of such party or of any agent of such party. Each party shall promptly notify the other in the event of any such claim or suit, and shall immediately provide a complete defense against the entire claim or suit. Each party shall notify its insurance company and other party within 10 days of receiving any claim for damages, notice of claims, pre-claims, or service of judgments or claims, for any act or omissions in the performance of this Agreement.

Each party agrees to investigate, defend and hold harmless the other party 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 such other party may incur, sustain or be subjected to, arising out of or in any way connected to this Agreement and arising from any cause, except to the extent of the negligence or wrongful act of such other party.

12. INSURANCE AND LIMITATION OF CONTRACTOR'S LIABILITY

EXCEPT AS EXPRESSLY PROVIDED IN OTHER SECTIONS OF THIS AGREEMENT, CONTRACTOR MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE SERVICES, DELIVERABLES OR INTELLECTUAL PROPERTY OR THEIR CONDITION, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE OR USE BY THE GOVERNMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CONTRACTOR SHALL NOT BE LIABLE FOR ANY (i) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, ARISING FROM OR RELATED TO THE BREACH OF THIS AGREEMENT OR THE OPERATION OR USE OF THE SYSTEM OR ANY SERVICES RENDERED BY CONTRACTOR, INCLUDING SUCH DAMAGES, WITHOUT LIMITATION, AS DAMAGES ARISING FROM LOSS OF DATA OR PROGRAMMING, LOSS OF REVENUE OR PROFITS, FAILURE TO REALIZE SAVINGS OR OTHER BENEFITS, DAMAGE TO EQUIPMENT, AND CLAIMS AGAINST THE GOVERNMENT BY ANY THIRD PERSON, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; OR (ii) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE BY CONTRACTOR TO PERFORM ITS OBLIGATIONS UNDER THIS AGREEMENT DUE TO ANY CAUSE BEYOND ITS REASONABLE CONTROL. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, CONTRACTOR'S LIABILITIES UNDER THIS AGREEMENT DURING THE IMPLEMENTATION AND ACCEPTANCE PERIODS, WHETHER UNDER CONTRACT LAW, TORT LAW OR OTHERWISE, SHALL NOT BE GREATER THAN TEN MILLION (\$10,000,000) DOLLARS FOR DAMAGES OTHER THAN THOSE ARISING FROM PROFESSIONAL LIABILITY OF THE CONTRACTOR, AND TWO MILLION (\$2,000,000) FOR DAMAGES

Contract No. PC096DHS15

Initials: 

ARISING FROM THE PROFESSIONAL LIABILITY OF THE CONTRACTOR. DURING THE MAINTENANCE AND OPERATIONS PERIODS, SUCH LIMITATION ON CONTRACTOR'S LIABILITY OF ANY TYPE SHALL BE REDUCED TO TWO MILLION (\$2,000,000) DOLLARS.

Contractor shall name the Government of the United States Virgin Islands and its officers and employees as an additional insured for liability arising out of this Agreement. If Contractor's current Comprehensive General Liability insurance coverage does not meet the above stated requirements, Contractor will obtain excess liability insurance to compensate for the difference in the coverage amounts. Contractor is responsible for any and all deductibles stated in the policies. Insurance will be maintained at all times during the performance of the Agreement. Insurance coverage will be issued by insurance companies authorized by applicable law to conduct business in the territory of the United States Virgin Islands, and must name the Government of the United States Virgin Islands and its officers and employees as an additional insured as an additional insured.

The insurance policy will have an extended reporting period of two years. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede, start of work on the Agreement.

In addition to the insurance required above, Contractor agrees to procure and maintain **professional liability insurance for any and all services performed under this Agreement, with a minimum coverage of \$2,000,000 per occurrence.**

A. Other Insurance

The Contractor must obtain, pay for, and keep in force the following minimum insurance coverage and shall furnish a certificate to the Government evidencing that such insurance is in effect:

(1) Comprehensive **general liability** policy with endorsement to insure contractual liability, personal injury, personal and advertising liability, waiving right of subrogation against the Government;

(2) Liability insurance against **bodily injury or death** of any one person in any one accident in the amount of five hundred thousand dollars (\$500,000) and in the amount of two million dollars (\$2,000,000) for the injury or death of more than one person in any accident; and,

(3) Insurance against liability for **property damages** in the amount of one million (\$1,000,000) dollars.

It shall be the responsibility of the Contractor to require any subcontractor to secure the same insurance coverage as prescribed herein for the Contractor, and to furnish to the Government a certificate or certificates evidencing that such insurance is in effect. Evidence of insurability under these provisions shall be directed to the Government. In addition, the Contractor must indemnify and save the Government harmless from any liability arising out of the Contractor's or any subcontractor's untimely failure in securing adequate insurance coverage as prescribed herein. All such coverage shall remain in full force and effect during the Term.

The insurance specified above will be carried until all services required to be performed under the terms of this Agreement are satisfactorily completed. Failure to carry or keep such insurance in force will

Contract No. PC096DHS15

Initials: 

constitute a violation of the Agreement, and Government maintains the right to stop work until proper evidence of insurance is provided.

The insurance will provide for thirty (30) calendar days prior written notice to be given to Government in the event coverage is substantially changed, canceled, or non-renewed. Contractor must submit a new coverage binder to Government to ensure no break in coverage.

The parties hereto expressly understand and agree that any insurance coverage and limits furnished by Contractor will in no way expand or limit contractor's liabilities and responsibilities specified within the contract documents or by applicable law.

13. EMPLOYMENT OF GOVERNMENT STAFF

To ensure compliance with Virgin Islands laws, the Contractor shall not knowingly engage on a full-time, part-time, or other basis during the period of this Agreement, any professional or technical personnel who is or has been in the employ of the Government of the United States Virgin Islands during the previous 24 months, without first acquiring an Ethics Opinion from the Attorney General of the Government of the United States Virgin Islands.

A. Additional Terms and Conditions For Contractor's Personnel

The Contractor warrants and represents that all persons including independent contractors and contractors assigned by it to the performance of this Agreement shall be agents of the Contractor and shall be fully qualified to perform the work required herein. The Contractor must include a similar provision in any contract with any subcontractor selected to perform work there under.

Government shall have the right, for reasonable cause, (i) to approve or disapprove Contractor's Key Personnel assigned to this Agreement or any proposed changes in Key Personnel, and (ii) to require the removal or reassignment of any Contractor employee or subcontractor employee reasonably found unacceptable by Government. The Contractor may terminate any of its personnel assigned to the project for a violation of law or company policy without Government's prior approval. Upon request, Contractor must provide Government with a resume of any of its Key Personnel assigned to or proposed to be assigned to any aspect of the performance of this Agreement.

Key Personnel commitments made in Addendum I shall not be changed except as hereinabove provided, or due to a resignation of any named individual. Key Personnel staffing will include the named individuals at the levels of effort proposed in Addendum I. Replacement of any Key Personnel will be with personnel of equal ability and qualifications as reasonably determined by Government. No substantial diversion of Key Personnel staffing will be made by the Contractor without prior written consent of Government.

The Contractor must provide staff to perform all tasks specified as the Contractor's responsibilities in this Agreement. The staff level must be maintained at the level stated in Addendum I or as authorized in writing by Government for the duration of the Agreement.

Failure of the Contractor to provide staffing at the contracted and Government approved level may result in liquidated damages.

Contract No. PC096DHS15

Initials: 

The Contractor will commit all Key Personnel specified in Addendum I to this Agreement unless Government exercises its option to have a staff person removed. Government will be provided unrestricted access to Key Personnel for discussion of problems or concerns.

14. [INTENTIONALLY DELETED]

15. INDEPENDENT CONTRACTOR

The Contractor shall perform this Agreement as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status. The Contractor will act in an independent capacity and not as an officer or employee of the Government of the U. S. Virgin Islands.

16. DRUG FREE WORKPLACE ACT.

The Contractor will assure a drug-free workplace in accordance with 2 CFR Part 382.

17. PRIVACY AND SECURITY STANDARDS

A. Protected Health Information

The Contractor shall maintain the privacy and security of all individually identifiable health information acquired by or provided to it as a part of the performance of this Agreement and in accordance with **Addendum III, Business Associate Agreement**. The Contractor shall follow Federal and territorial laws relating to privacy and security of individually identifiable health information as applicable, including the Health Insurance Portability and Accountability Act ("HIPAA") and regulations thereunder.

B. Substance Abuse Treatment Information

The confidentiality of any alcohol and drug abuse treatment information acquired by or provided to the Contractor or subcontractor shall be maintained in compliance with any applicable territorial or Federal laws or regulations and specifically set out in 42 CFR Part 2.

C. Other Confidential Consumer Information

The Contractor agrees to comply with the requirements of Government concerning access to information. The Contractor agrees to comply with any applicable territorial statute, and any applicable Medicaid confidentiality regulations, as well as the **Business Associate Agreement in Addendum III** that is incorporated into this Agreement. The Contractor shall ensure that all of its employees and subcontractors performing services under this Agreement understand the sensitive nature of the information that they may have access to and sign an affirmation of understanding regarding the information's confidential and non- public nature.

D. Social Security Numbers

The Contractor agrees to comply with all applicable Federal and territorial statutes to assure protection and security of personal information, including protection from identity theft.

Contract No. PC096DHS15

Initials: 

18. INTELLECTUAL PROPERTY/WORK PRODUCT OWNERSHIP

All data, technical information, materials **first** gathered, originated, developed, prepared, or obtained as a condition of this Agreement and used in the performance of this Agreement, including, but not limited to all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and printouts, notes and memoranda, written procedures and documents, which are prepared for or obtained specifically for this Agreement or are a result of the services required under this Agreement, shall be considered "work for hire" and remain the property of the Government of the United States Virgin Islands, regardless of the state of completion, unless otherwise specified in this Agreement. Such items shall be delivered to the Government upon 30 days' notice by the Government. With respect to software computer programs and/or source codes first developed for the Government, all the work shall be considered "work for hire," **i.e., the Government, not the Contractor or subcontractor, shall have full and complete ownership of all software computer programs, documentation and/or source codes developed.**

The Contractor shall not sell or copyright a work product or item **first** produced under this Agreement without explicit permission from the Government and CMS.

If the Contractor is operating a system or application on behalf of the Government of the U. S. Virgin Islands, then the Contractor shall not make information entered into the system or application available for uses by any party other than the Government, without prior authorization by the Government. Nothing herein shall entitle the Government to pre-existing Contractor's materials.

19. SECURITY AND DATA TRANSFERS

The Government of the U.S. Virgin Islands shall work with the Contractor to ensure compliance with all applicable territorial, CMS and DHS policies and standards, especially those related to privacy and security. The Government will advise the Contractor of any new policies, procedures, or protocols developed during the Term as they are issued and will work with the Contractor to implement any required changes to this Agreement, including amendments, to implement the same.

The Contractor will be responsible for the physical and data security associated with computer equipment, including desktops, notebooks, and other portable devices, used in connection with this Agreement. The Contractor will use commercially reasonable efforts to ensure that any media or mechanism used to store or transfer data to or from the territory includes industry standard security mechanisms such as continually up-to-date malware protection and encryption. The Contractor will make every reasonable effort to ensure media or data files transferred to the territory are virus and spyware free. At the conclusion of this Agreement and after successful delivery of any and all data connected with this Agreement to the Government, the Contractor shall securely delete data (including archival backups) from the Contractor's equipment that contains individually identifiable records, in accordance with standards adopted by the Government and its Department of Human Services.

20. COMPUTING AND COMMUNICATION

The Contractor shall select, in consultation with the Government's Department of Human Services and the Bureau of Information Technology Office, one of the approved methods for secure access to the

Contract No. PC096DHS15

Initials: 

Government's systems and data, if required. Approved methods are based on the type of work performed by the Contractor as part of this Agreement. Options include, but are not limited to:

1. Contractor's provision of certified computing equipment, peripherals and mobile devices, on a separate Contractor's network with separate Internet access. The Government's Department of Human Services' accounts may or may not be provided.

2. Government supplied and managed equipment and accounts to access DHS applications and data, including DHS issued active directory accounts and application specific accounts, which follow the National Institutes of Standards and Technology security and the HIPAA standards.

The Government will not supply e-mail accounts to the Contractor.

21. CONTRACT A PUBLIC RECORD

Upon the signing of this Agreement by all parties hereto, the terms of the Agreement become available to the public pursuant to Virgin Islands law. The parties hereto agree to allow public access to all documents, papers, letters, or other materials subject to the current Virgin Islands law on disclosure. It is expressly understood that substantial evidence of Contractor's refusal to comply with this provision shall constitute a material breach of this Agreement.

22. PUBLIC INFORMATION

All information received in response to the RFP that is the subject of this Agreement, including copyrighted material, is deemed public information and will be made available for public viewing and copying shortly after the signing of contracts. The **sole exceptions** to this are as follows: (1) trade secrets meeting the requirements of Federal Trade Secrets laws that have been properly marked, separated, and documented; and (2) any Contractor financial information requested by Government to determine Contractor's responsibility, unless prior written consent has been given by the Contractor.

23. INITIATION OF WORK UNDER AGREEMENT

The Contractor acknowledges and understands that the Agreement is not effective until all requisite Government approvals are received, and the Contractor shall not begin performing work under this Agreement until notified to do so by Government's Department of Human Services. ***The Contractor is entitled to no compensation for work performed prior to the effective date of this Agreement.***

24. CONTRACT AMENDMENTS

This Agreement shall be deemed to include all applicable provisions of the Virgin Islands Medicaid State Plan and all territorial and Federal laws and regulations applicable to the U. S. Virgin Islands Medicaid Program, as they may be amended. In the event of any substantial change in such Plan, laws, or regulations, which materially affect the operation of the Virgin Islands Medicaid Program, or the costs of administering such Program, either party, after written notice and before performance of any related work, may apply in writing to the other for an equitable adjustment in compensation or schedule caused by such material change.

Contract No. PC096DHS15

Initials: 

25. CHANGES TO THE SCOPE OF SERVICES

During the Agreement period, if the Contractor considers that any written or oral communication, including any order, direction, instruction, interpretation, or determination, received from Government's Department of Human Services and its Medicaid agent or representative, or that any other act or omission of the Virgin Islands Medicaid Program, its agent or representative (an "*Event*") constitutes a change to the scope of the *Scope of Services* of this Agreement or otherwise adversely affects Contractor's performance of this Agreement, but is not plainly identified, labeled, or titled as such, the Contractor shall advise the designated Government's contact person with respect to the services to be provided by Contractor under this Agreement in writing within ten (10) business days of the *Event* and shall request written confirmation of the *Event*. The notice shall state the following:

(1) The nature and pertinent circumstances of the communication, act, or omission regarded as a change in scope of the *Scope of Services* by the Contractor;

(2) The date of the communication, act, or omission, and the identification of each individual involved in such communication, act, or omission, listing his or her name and function;

(3) The identification of the documents involved;

(4) The substance of any oral communications;

(5) The particular technical requirements or Agreement requirements regarded as changed;

(6) The direct and foreseeable consequential effect of the communication, act, or omission regarded as a change to the scope of the *Scope of Services*, including the number of hours required from the staff to accomplish the change and the manner and sequence of performance or delivery of supplies or services, identifying which supplies or services are or shall be affected, and the effect on the overall schedule of performance of Contractor's work;

The Department of Human Services shall respond in writing within 10 days of receipt of the Contractor's notice.

26. ADDITIONS TO PERMANENT STAFF

Both the Contractor and the Government must agree upon additions to Key Personnel.

27. FORCE MAJEURE

Neither party to this contract shall be responsible for delays or failures in performance resulting from acts beyond the control of such party. Such acts shall include, but not be limited to, acts of God, strikes, riots, lockouts, and acts of war, epidemics, fire, earthquakes, hurricanes or other disasters.

28. SUBCONTRACTS

The Contractor may subcontract for any services necessary to the completion and *duration* of this Agreement and to the performance of its duties under this Agreement ***with advance written approval by the Government of both the subcontracted function and the subcontractor, which approval shall***

Contract No. PC096DHS15

Initials: 

not be unreasonably withheld. Subcontractors include those whose services shall be purchased or software licensed by the Contractor, and any business partnerships between the Contractor and others.

Subcontractors shall demonstrate the capability to perform the function to be subcontracted. All subcontracts shall be in writing, with the subcontractor functions and duties clearly identified, and shall require the subcontractor to comply with all applicable provisions of this Agreement. The Contractor shall at all times remain responsible for the performance by any subcontractors approved by the Government. The Contractor's responsibility for damages shall apply whether performance or nonperformance was by the Contractor or one of its subcontractors. The Government shall not release the Contractor from any claims or defaults of this Agreement, which are predicated upon any action or inaction or default by any subcontractor of the Contractor, even if such subcontractor was approved by the Government as provided above. The Contractor shall give the Government notice in writing of any action or suit filed against it by any subcontractor and prompt notice of any claim made against the Contractor by any subcontractor or Contractor, which in the opinion of the Contractor may result in litigation related in any way to this contract with the Government of the U. S. Virgin Islands.

29. TERMINATION

This Agreement may be terminated by Government for any and all of the following reasons:

(1) In the event of the insolvency of or declaration of bankruptcy by the Contractor. The filing of a petition for voluntary or involuntary bankruptcy or a company or corporate reorganization pursuant to the Bankruptcy Act shall, at the option of the Government, constitute default by the Contractor effective the date of such filing; provided that an involuntary proceeding shall not constitute default if it is withdrawn or dismissed within ninety (90) days after filing. The Contractor shall inform the Government of any such action(s) immediately upon occurrence by the most expeditious means possible (e.g., telephone, fax, Federal Express, USPS mail, etc.).

(2) For any default by the Contractor. The Government may, by written notice, terminate performance under this Agreement, in whole or in part, for failure of the Contractor to perform any of the material provisions of this Agreement. In the event the Contractor defaults in the performance of any of the Contractor's material duties and obligations, written notice shall be given to the Contractor specifying default.

The Contractor shall have 30 calendar days, or such additional time as agreed to in writing by the Government, after the receipt of such notice to cure any default. In the event the Contractor does not cure a default within 30 calendar days, or such additional time allowed by the Government, the Government at its option may notify the Contractor in writing that performance under this Agreement is terminated and proceed to seek appropriate relief from the Contractor. If it is determined, after notice of termination for default, that the Contractor's failure was due to causes beyond the control of and without error or negligence of the Contractor, the termination shall be deemed a termination for convenience.

(2) In the event sufficient appropriated, obligated funds from either territorial or Federal sources no longer exist for the payment of Government's obligation herein. Performance by the Government of any of its obligations under this Agreement is subject to and contingent upon the availability of territorial and Federal monies lawfully applicable for such purposes. If the Government reasonably deems at any time during the Term that adequate monies lawfully applicable to this Agreement shall not be available for the

Contract No. PC096DHS15

Initials: 

remainder of the Term, the Government shall promptly notify the Contractor to that effect, whereupon the obligations of the parties under this Agreement shall end as of the date of the receipt of such notice and this Agreement shall at such time be canceled without penalty to the Government of the U.S. Virgin Islands or the Federal Government.

(3) For the convenience of Government. The Government may terminate performance of work under the Agreement in whole or in part whenever, for any reason, the Government, in its sole discretion determines that such termination is in the best interest of the Government. In the event that the Government elects to terminate this Agreement pursuant to this provision, it shall so notify the Contractor by certified or registered mail, return receipt requested. The termination shall be effective as of the date specified in the notice. In such event, the Contractor will be entitled only to payment for all work satisfactorily completed and for reasonable costs incurred in good faith for work in progress; and the reasonable costs incurred as a result of the termination of the work, including but not limited to accounting, legal, clerical, and other expenses reasonably necessary for the termination if this Agreement.

A. The Contractor's Duties Upon Expiration/Termination

Prior to the conclusion of this Agreement, the Contractor shall follow the procedure outlined below for termination. Contractor shall provide, at no extra charge, full support and assistance in turning over the complete and current deliverables to the Government or its agent. ***The Government desires a low-risk turnover that is transparent. Specific objectives are to provide for an orderly, complete, and controlled transition to a successor Contractor and to minimize any disruption of processing and services provided.***

The Contractor must:

(1) Stop work under this Agreement on the date and to the extent specified in the notice of termination.

(2) Place no further orders or subcontracts for materials or services, except as may be necessary for completion of such portion of work under this Agreement as is not terminated.

(3) Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination.

(4) Assign to the Government, in the manner and to the extent directed by the Government, all of the rights, title, and interest of the Contractor under the orders or subcontracts so terminated, in which case the Government shall have the right, in its discretion, to settle, pay, or deny any or all claims arising out of the termination of such orders and subcontracts.

(5) With the prior approval or ratification of the Government, settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, the cost of which would be reimbursable in whole or in part, in accordance with the provisions of this Agreement. Failure to obtain prior approval shall result in loss of the Agreement reimbursement.

(6) Complete the performance of such part of the work as shall not have been terminated by the notice of termination.

Contract No. PC096 DHS15

Initials: 

(7) Take such action as shall be necessary, or as the Government shall direct, for the protection and preservation of any and all property or information related to these contracts which is in the possession of the Contractor and in which the Government has or shall acquire an interest. Upon receipt of notice of termination, Contractor must have no entitlement to receive any amount for lost revenues or anticipated profits or for expenditures associated with this or in any other contract. Contractor shall be paid only by the following upon termination:

(a) at the contract price(s) for completed deliverables and services delivered to and accepted by Government;

(b) the reasonable costs incurred as a result of the termination of the work, including but not limited to accounting, legal, clerical, and other expenses reasonably necessary for the termination if this Agreement; and

(c) at a price mutually agreed upon by the Contractor and Government for partially completed deliverables. In the event of the failure of the Contractor or and Government to agree in whole or in part as to the amounts with respect to costs to be paid to the Contractor in connection with the total or partial termination of work pursuant to this article, Government shall determine on the basis of information available the amount, if any, due to the Contractor by reason of termination and shall pay to the Agreement or the amount so determined.

30. NONDISCRIMINATION COMPLIANCE

The Contractor shall comply with Title VII of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Executive Order No. 11246, as amended by Executive Order No. 11375, both issued by the President of the United States, the Americans with Disabilities Act of 1990, and with all applicable Federal and territorial laws, rules and regulations implementing the foregoing statutes with respect to nondiscrimination in employment. The Contractor shall not discriminate against any employee or applicant for employment because of a physical or mental disability in regard to any position for which the employee or applicant is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled individuals without discrimination based on their physical or mental disability in all employment practices.

31. SMALL BUSINESSES, MINORITY-OWNED FIRMS, AND WOMEN'S BUSINESS ENTERPRISES UTILIZATION

In accordance with the provisions of 45 CFR Part 75 and the Federal Office of Management and Budget Circular A-102, affirmative steps shall be taken to assure that small businesses, minority-owned firms and women's business enterprises are utilized when possible as sources of supplies, equipment, construction, and services.

32. WORKER'S COMPENSATION

The Contractor must take out and maintain during the Term, worker's compensation insurance for all of its employees working as part of this Agreement; and, in the event any work is subcontracted, the Contractor must require any subcontractor similarly to provide worker's compensation insurance for all the latter's employees working as a part of this Agreement.

Contract No. PC096DHS15

Initials: 

33. LOBBYING

No Federal funds under this Agreement may be used to influence or attempt to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with the awarding of any Federal contract, continuation, renewal, amendments other than Federal appropriated funds.

34. WAIVERS AND AMENDMENTS

No waiver, modification or amendment of any term, condition or provision of this Agreement, 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 Agreement, but the same shall be strictly limited and restricted to the extent and occasion specified in such signed writings or writings.

35. HEADINGS AND TITLES

Any headings or titles used to help identify any part of this Agreement are for reference purposes only and shall not be deemed as controlling the interpretation or meaning of any provision of this Agreement.

36. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the parties hereto, and all prior understanding or communications, written or oral, with respect to the **RFP No. 037-20141(Professional)**, which are the subject matter of this Agreement, are merged into this Agreement.

37. RIGHT TO WITHHOLD

If work under this Agreement is not performed in accordance with the terms hereof, including any *Addenda* hereto, Government will have the right to withhold out of any payment due to Contractor, such sums as Government may reasonably 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; provided that in no event shall such withholding exceed twenty (20%) percent of the amount invoiced for the deliverable to which such withholding relates. Government will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

38. CONFLICT OF INTEREST

Contractor covenants that it, including 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 Agreement.

Contract No. PC096 DHS 15

Initials: 

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 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 not made, negotiated or influenced this Agreement, in its official capacity; and no financial interest in the Agreement as that term is defined in Section 1101, (1) of said Code Chapter.

39. NO GIFTS OR GRATUITIES

Contractor shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the Government during the Term.

40. DAMAGES

A. Liquidated Damages

The purpose of liquidated damages is to ensure adherence to the performance requirements in this Agreement. No punitive intention is inherent. It is agreed by the Government and the Contractor that, in the event of a failure to meet the requirements of this Agreement, damage shall be sustained by the Government, and that it is and shall be impractical and extremely difficult to ascertain and determine the actual damages which the Government shall sustain in the event of, and by reason of, such failure; and it is therefore agreed that the Contractor shall pay the Government for such failures at the sole discretion of the Government according to the following subsections (unless these damages are waived by Government).

(1) Government shall assess damages in the amount of five hundred dollars (\$500.00) per working day or any part thereof after the day identified in the individual sections that the requirement/deliverable is not met. Government may identify any other condition resulting from the Contractor's non-compliance with the RFP and Agreement through routine monitoring activities. Government will notify the Contractor in writing of the non-compliance and designate a reasonable time for correction of the non-compliance.

(2) Damages in the amount of two hundred dollars (\$200.00) shall be assessed for each working day or any part thereof after the designated time for correction until the correction of the noncompliance.

(3) With respect to Contractor's personnel, personnel proposed for the project must be committed and significantly engaged with the project. Inexperienced personnel must not be substituted for the proposed personnel. Should specific personnel proposed by the Contractor not be available, or if Government determines that Key Personnel are not providing an adequate amount of time onsite or are not performing in accordance with Government's expectations, Government reserves the right to cancel the project and all prior agreements with the Contractor. Government shall allow the Contractor reasonable time to replace Key Personnel not to exceed four (4) weeks from the date Government was notified of the personnel loss.

Contract No. PC096DHS15

Initials: 

(4) Government reserves the right to impose liquidated damages of up to ten (10%) percent of the total proposed project price should Key Personnel not be available, or become materially absent during the course of the project.

(5) Written notification of each failure to meet contractual requirements and an opportunity to correct such failure shall be given to the Contractor in writing at least thirty (30) days prior to the imposition of any liquidated damages. ***The imposition of liquidated damages is not in lieu of any other remedy available to the Government.*** The Government shall withhold from the Contractor reimbursements amounts necessary to satisfy any damages imposed.

(6) In no event will the total amount of liquidated damages imposed pursuant to this Section exceed twenty (20%) percent of the total amount invoiced to the Government at the date the alleged failure occurs.

(7) A decision by the Government not to exercise this damage clause in a particular instance shall not be construed as a waiver of the Government's right to pursue future assessment of that performance requirement and associated damages. The Government may, at its sole discretion, return all or a portion of any liquidated damages collected, as an incentive to the Contractor for prompt and lasting correction of performance problems.

B. Payment of Damages

Amounts owed the Government due to liquidated damages shall be deducted by the Government from any money payable to the Contractor pursuant to this Agreement. These amounts may be deducted from any actual damages claimed by the Government in the event of litigation for non-compliance and default.

41. NOTICE

Any notice required to be given by the Terms of this Agreement 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:

Commissioner
Government of the Virgin Islands
DEPARTMENT OF HUMAN SERVICES
1303 Hospital Ground
St. Thomas, U.S.V.I. 00802
Telephone: (340) 774-1166
Fax: (340) 774-3466

Copy to: Commissioner
DEPARTMENT OF PROPERTY & PROCUREMENT
Sub Base, Building No. 1, Third Floor
St. Thomas, U.S. Virgin Islands 00802
Telephone: (340) 774-0828
Fax: (340) 777-9587

Contract No. PC096 DHS15

Initials: 

CONTRACTOR:

REDMANE TECHNOLOGY LLC
8614 W. Catalpa Avenue, Suite 1001
Chicago, Illinois 60656
Telephone: 773-339-0000
Facsimile: 773-693-3627
Attention: Tony Lakier
Email: tony_lakier@redmane.com and
Selwyn Buchman
Email: selwyn_buchman@redmane.com

42. FALSE CLAIMS

Contractor warrants that it shall not, with respect to this Agreement, 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 false, fictitious, or fraudulent claim is a crime under Virgin Islands and Federal laws.

43. NOTICE OF FEDERAL FUNDING

Contractor acknowledges that this Agreement is funded, in whole or in part, by Federal funds and in particular the 90 percent enhanced Federal funding from CMS and the cost allocation exception for shared information systems development costs as set forth in Section C.3 of OMB Circular A-87. Contractor warrants that it shall not, with respect to this Agreement, 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 offense.

44. DEBARMENT CERTIFICATION

By execution of this Agreement, the contractor certifies that it is eligible to receive 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 require each proposed subcontractor to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government. In the event the Contractor or 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 Agreement or subcontract 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, the Contractor shall become ineligible to receive contract awards using Federal funds, this Agreement shall be terminated forthwith for cause and the Contractor shall **not** be entitled to payment for any work performed under this Agreement or sub-contract **after** the effective date of such ineligibility.

Contractor represents that none of its personnel have been excluded from participating in Medicare, Medicaid, or other Federal health care programs. The Contractor shall notify the Government immediately in the event that it learns that either the Contractor or any of its personnel becomes ineligible

Contract No. PC096DHS15

Initials: 

to participate in Medicare, Medicaid, or any other Federal health care program during the Term. If any personnel are excluded from participating in Medicare, Medicaid, or any other Federal health care program, the Contractor shall immediately replace such personnel. If The Contractor is excluded from participating in Medicare, Medicaid, or any other Federal health care program, this Agreement shall terminate automatically effective as of the date of such exclusion.

45. PUBLICITY

No publicity, including press releases, interviews, bulletins, or articles in any public medium concerning this Agreement, its terms, execution, implementation, or results, can be released without the written approval of the Government.

46. ORDER OF PRECEDENCE

Addendum I, Scope of Services; Addendum II, Terms of Compensation; and, Addendum III, Business Associate Agreement; attached hereto are hereby incorporated and made a part of this Agreement. In the event of a conflict between the terms and conditions of the following documents, the order of precedence shall be:

1. Any *Addendum* to this Agreement;
2. This Agreement;
3. The Proposal submitted by the Contractor in response to the RFP;;
4. The RFP Addenda; and
5. The RFP.

[SIGNATURE PAGE FOLLOWS]

Contract No. PC096DHS15

Initials: 

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

WITNESSES:

[Signature] Aug 11/2015
Date
[Signature]

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

[Signature]
Vivian Ebbesen-Fludd, BSM, MS
Commissioner

[Signature] 4 Sep 15
Date
[Signature]

DEPARTMENT OF PROPERTY & PROCUREMENT

[Signature]
Randolph N. Bennett
Commissioner Designee

CONTRACTOR:

[Signature] 08/20/15
Date
[Signature]

REDMANE TECHNOLOGY LLC

[Signature]
Tony Lakier
President

APPROVED

[Signature]
Kenneth Mapp
Governor the U.S. Virgin Islands

Date 9/30/15

**APPROVED AS TO LEGAL SUFFICIENCY
DEPARTMENT OF JUSTICE**

By: [Signature] SAC
Attorney General of the U.S. Virgin Islands
Governor of the U.S. Virgin Islands

Date 9/25/15

Purchase Order: _____

Account No.: _____

Contract No. PC096DHS15

Initials: [Signature]