

CONTRACT

HVAC REPLACEMENT SERVICES FOR LAGOON STREET COMPLEX

THIS CONTRACT made as of the 25 day of June, 2024, in the Territory of the United States Virgin Islands, by and between **COMFORT COOLING, INC. d/b/a CARIBBEAN COOLING COMPANY**, having its principal place of business at 7aa Peter's Rest, Christiansted, St. Croix, U.S. Virgin Islands 00820 (hereinafter the "**Contractor**") and the **VIRGIN ISLANDS HOUSING FINANCE AUTHORITY**, having its principal place of business at 3202 Demarara Plaza, Suite 200, Charlotte Amalie, St. Thomas Virgin Islands 00802 (hereinafter the "Authority" or "VIHFA"). Each party may be referred to in the singular as "Party" and collectively as the "Parties".

WITNESSETH

WHEREAS, the Authority is in need of the services of qualified and licensed HVAC Contractors to install a condensing unit for the Executive Director's Office in the Authority's office located at 100 Lagoon Street Complex, Suite 4, St. Croix, U.S. Virgin Islands (the "Project"); and

WHEREAS, on June 18, 2024, the Authority's Executive Director approved a justification letter dated June 17, 2024 from Manager of Rental Properties through the Chief Operating Officer for Contractor to complete the Project; and

WHEREAS, the Contractor submitted a revised bid in the amount of Nineteen Thousand Dollars and Zero Cents (\$19,000.00) to complete the Project; and

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

WHEREAS, approval of the Board of Directors is not required for contracts less than Two Hundred Fifty Thousand Dollars (\$250,000.00) unless a modification brings a consecutive series of modifications in the aggregate to an excess of Two Hundred Fifty Thousand Dollars (\$250,000.00); and

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

1. **SCOPE OF WORK:** The Contractor shall furnish all labor, equipment, materials and services necessary to perform and complete the Project, as described below:

1.1 Protect all existing and adjacent structures to ensure damage is not caused during the course of completing the project scope of work.

1.2 **Removal of System:** Remove and dispose of two (2) existing 3-Ton ducted central air conditioner units ("AC units"), due to deterioration.

WL

1.3 Installation Services: Supply and install two (2) new 3-Ton RHEEM ducted central complete air conditioner units to cool and condition the second floor of 100 Lagoon Street Complex and the room behind the Authority's receptionist's office in Suite 2 of 100 Lagoon Street Complex, including multiple compressors, air handlers or fan coil units, and associated components. This involves mounting the equipment with required hardware, connecting refrigerant lines, electrical wiring, and any necessary plumbing connections. **Repair all walls that may require opening to install A/C lines.**

Utilize crane services to mount both condensers on top the roof. Fabricate and install new auxiliary drain pans. Fabricate and install a new duct plenums to accommodate the new air handlers. Reuse the existing refrigerant and electrical lines. Evacuate the systems, charge and start up the units. Verify proper operation.

The selected equipment and system must carry the Air Conditioning, Heating & Refrigeration Institute Certification (AHRI).

The selected equipment must be intended for use in the Territory's marine/coastal environment. Therefore, VIHFA considers this most suitable for the Territory's particular environment.

The Authority and the Contractor may agree to changes in or additions to the Scope of Work. However, no changes shall be valid unless in writing and signed by both parties.

1.4 Commissioning and Testing: Once the AC system is installed, the Contractor must perform commissioning and testing to ensure that the system operates as intended free of leaks. This involves evacuating the system, charging the system, start up, checking refrigerant levels, airflow, temperature differentials, and overall system performance.

1.5 Balancing and Adjustments: The Contractor must balance the airflow within the ductwork system, adjusting dampers and registers as needed to achieve proper air distribution and temperature control throughout the building.

1.6 Documentation and Training: Provide documentation such as equipment manuals, warranties, and/or guarantees. Also provide training on how to operate and maintain the AC system.

1.7 Disposal of Trash: The Contractor is responsible for all fees associated with disposal of debris and in accordance with VIWMA regulations.

2. WORKMANSHIP/WARRANTY: The Contractor will complete all work in a substantial and efficient manner according to standards and practices in the Contractor's trade, and the work shall
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conform to all applicable codes and regulations which apply to the work to be performed. The Contractor warrants that the final product of Contractor's work shall be fit for the purposes for which it is intended. The Contractor will warrant that proper disposal was completed throughout the process of receiving the final chain of custody documentation and certification of disposal of a regulated facility and upon acceptance by the VIHFA.

3. **COMMENCEMENT DATE:** The Contractor agrees that time is of the essence and will commence work on June 21, 2024.

4. **TERM:** The Contractor shall complete the Scope of Work within five (5) calendar days from the commencement date.

4.1 MAINTENANCE SERVICES

The Contractor shall provide a limited compressor warranty for five (5) years; a limited parts warranty for one (1) year; and a labor guarantee for ninety (90) days. Electrical (if needed) is excluded.

5. **LIQUIDATED DAMAGES:** Should the Contractor fail to complete the purchase and installation of the AC units per the terms of the Scope of Work described above, the Contractor agrees to pay to the VIHFA, as liquidated damages, **One Hundred Dollars and Zero Cents (\$100.00)** for each calendar day or portion thereof that the Contractor fails to complete or diligently perform the work in accordance with the contract documents and/or is in violation of the contract. The liquidated damages shall first be deducted from any contract monies due but not yet paid to the Contractor, to the extent available.

6. **COMPENSATION:** The Authority, in consideration of the satisfactory performance of the Scope of Work above, shall pay the Contractor: **Nineteen Thousand Three Hundred Dollars and Zero Cents (\$19,000.00)**, which is comprised of:

ITEM	SITES	PRICE
1.	Two (2) 3-Ton Ducted RHEM Central Air Conditioner Units	\$8,200.00
2.	Labor & Materials	\$10,800.00
		Total: \$19,000.00

6.1 TERMS OF PAYMENT:

- (a) Payment will be based upon work in place.
- (b) The Contractor shall allow the Authority enough time to review and process payment requests, which can take on average four (4) weeks after the Authority's receipt and approval of Contractor's invoice(s).

Contractor's Initials: WL

VIHFA's Initials: [Signature]

- (c) It is expressly understood and agreed that in no event shall the amounts to be paid by the VIHFA to the Contractor under this Contract exceed the rates or conditions made as a part of this Contract unless expressly agreed to in writing.
- (d) Contractor's obligations under this Contract and VIHFA's obligation to pay the Contractor for services performed under this Contract are contingent upon the availability of applicable funds. VIHFA shall be the final authority as to the availability of funds for this Contract and as to what constitutes "applicable funding" to complete this Contract. The Contractor is responsible for submitting to VIHFA, all required documentation for payment. If any such funds are not made available for the Contract purpose, such event will not constitute a default by VIHFA, but shall entitle Contractor to terminate if funds are not received and available to compensate Contractor for any period exceeding forty-five (45) days. Notwithstanding the foregoing, Contractor shall be paid for all costs and services incurred to the date of any notification regarding the non-availability of funds.
- (e) The VIHFA reserves the right to modify and/or terminate the contract if funding becomes unavailable. In addition, the VIHFA reserves the right to modify and/or terminate the contract if the Contractor fails to perform in a manner consistent with the terms of the contract.

7. CONTRACTOR'S REPRESENTATIONS: The Contractor warrants that it is fully informed regarding all the conditions affecting the work to be performed including labor and materials to be furnished for the completion of the Contract. The Contractor represents that it is fully equipped, competent, and capable of performing the work and is available to perform such work.

The Contractor further represents that it shall provide its services and meet its obligations under this Contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in the United States Virgin Islands and that it will provide a standard of care equal to, or superior to, care used by service providers similar to Contractor in the United States Virgin Islands.

8. REPRESENTATIONS, WARRANTIES, AND COVENANTS BY CONTRACTOR: The Contractor warrants and covenants that:

(a) It is duly organized and existing and authorized, qualified, and licensed to do business in the United States Virgin Islands.

(b) It will, during the term of this Contract, remain in good standing and qualified to do business under the laws of the Territory, including maintenance at all times of a valid V.I. business license, and will not cease doing business, dissolve or otherwise dispose of all or substantially all of its assets and will not voluntarily consolidate with or merge into any other entity or permit one

Contractor's Initials: WL

VIHFA's Initials: [Signature]

or more other entities to consolidate with or merge into it without the prior written consent of the Authority.

(c) It has the power to execute, deliver and perform, and to enter into the transactions contemplated by this Contract, and has duly authorized the execution, delivery and performance of this Contract.

(d) The execution and delivery of this Contract, the consummation of the transaction contemplated hereby and the fulfillment or compliance with the terms and conditions of this Contract do not and will not conflict with or result in a breach of any of the terms, conditions or provisions of any legal restrictions or any Contract or instrument to which Contractor is now a party or by which it is bound or constitute a default under any of the foregoing.

(e) No information, statement, or report furnished in writing by the Contractor in connection with the negotiation of, or performance under, this Agreement and the consummation of the transactions contemplated hereby, contains any material misstatement of fact or omits to state a material fact that would make the information, statement or report misleading.

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

9. PROFESSIONAL STANDARDS: Contractor will complete all work in accordance with standard practices of Contractor's industry and the work shall conform to all local building codes and regulations which apply to the work being performed whether or not covered by the project specifications and drawings, including any Contractor registration requirements. Contractor warrants that the final product of Contractor's work shall be fit for the purposes for which it is intended. Contractor will warrant against defects in materials and workmanship for a period of one year from the date of completion and upon acceptance of the work by the Architect and VIHFA.

10. DEFECTIVE WORK: The inspection of work shall not relieve the Contractor of any of its obligations to fulfill the terms and conditions of the Contract as herein prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by VIHFA's Project Manager and accepted or paid for. If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, or the final payment thereof, the Contractor shall forthwith make good such defect in a manner satisfactory to VIHFA's Project Manager and replace at its own expense damaged or unsuitable materials with the new material of satisfactory quality.

11. MECHANIC'S LIEN: Contractor agrees to protect, defend, and indemnify VIHFA from any claims for unpaid work, labor, or materials with respect to Contractor's performance under this

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Contract and shall execute a Lien Waiver upon receipt of each payment. Final payment shall not be due until the Contractor has delivered to VIHFA a complete release of all liens for work completed arising out of Contractor's Performance or a receipt in full covering all labor and materials for which a lien could be filed or a bond satisfactory to VIHFA indemnifying VIHFA against any and all liens.

12. **CONSTRUCTION WARRANTY:** The Contractor shall fully guarantee all construction work, if any, under this Contract for a period of one (1) year from date of the final acceptance of the work, against all defects in both workmanship and materials, and shall promptly correct and/or replace such faulty work when so notified. The Contractor shall, within a reasonable time, which shall be no later than thirty (30) days after receipt of a written notice of a defect, promptly remedy and repair any defects in materials or workmanship, without expense to VIHFA, and shall warrant such repairs.

The Contractor shall require warranties from all subcontractors and shall deliver copies of all warranties along with all equipment warranties to VIHFA prior to the final inspection.

The Contractor shall also deliver copies of all product manuals, specifications, and other instructional materials pertaining to any fixtures or equipment installed pursuant to this Contract to VIHFA at the termination of this Contract, or earlier upon request. All such material shall become the property of VIHFA.


13. **MAINTENANCE OF AREA/REMOVAL OF DEBRIS:** The Contractor agrees to maintain the work area free from major obstructions/hazards to the greatest extent possible and to ensure safe access at all times. Contractor agrees to remove all debris and surplus material from the property and leave the area in a neat and clean condition.

14. **INSURANCE:** The Contractor shall maintain General Liability Insurance, in a form acceptable to the VIHFA, on a "per occurrence" basis with a minimum limit of not less than **One Million Dollars (\$1,000,000.00)** for protection against claims for damages because of bodily injury or death, claims for damages to property which may arise out of or result from the Contractor operation under the contract whether such operations be by the Contractor or by any subcontractor or anyone directly or indirectly employed by any of them. The insurance policy shall name the VIHFA as Certificate Holder and an "Additional Insured" via an endorsement as follows:

Virgin Islands Housing Finance Authority
3202 Demarara Plaza, Suite 200
St. Thomas, U. S. Virgin Islands 00820

Additionally, Contractor shall provide the VIHFA with a copy of Contractor's current liability insurance policy.

Contractor's Initials: WL

VIHFA's Initials: 

15. **WORKERS' COMPENSATION INSURANCE:** Contractor shall obtain and maintain Workers' Compensation Insurance coverage at the statutory limit for the term of this Contract and provide the VIHFA with a copy of Contractor's Workers' Compensation Insurance Certificate.

16. **INDEMNIFICATION:** To the extent permitted by law, the Contractor shall indemnify, hold harmless and defend the Authority, its Board of Directors, agents, and employees from and against any and all claims, demands, actions, liabilities, losses, costs, and expenses, including but not limited to reasonable attorney's fees and other fees, of whatsoever character which the Authority may incur, sustain, or be subjected to, arising out of or in any way connected to (1) the services to be performed by Contractor under this Contract or arising from any cause and (2) injury or death to persons or loss or damage to property arising from the Authority's use, operation or possession of the installed HVAC system, except the sole negligence of the Authority.

17. **MATERIALS:** All materials will be specified in the Scope of Work and shall be new and of good quality.


18. **SUPERVISION OF WORKERS:** Contractor's authorized representatives shall supervise all of its employees, subcontractors, and authorized representatives. All workers must be competent and skilled in their work.

19. **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.

20. **USE OF SUBCONTRACTORS:** Contractor shall be responsible for all deliverables specified in the Authority's solicitation. This general requirement notwithstanding, Contractor may enter into subcontractor arrangements. However, Contractor agrees that it has total responsibility for the entire Contract. The documentation required of the Contractor is also required for any subcontractor. The Contractor shall be the single point of contact for all subcontract work. Every subcontract shall incorporate and follow the terms of the contract between the Contractor and VIHFA. The Contractor shall not contract with any other party for any of the services herein contracted without the express written approval of the VIHFA. The Contractor shall be responsible for fulfillment of all terms of contract, timing, and payments to subcontractors regardless of funding provided by the VIHFA.

21. **LIABILITY OF OTHERS:** Nothing in this Contract shall be construed to impose any liability upon the Authority to persons, firms, associations, or corporations engaged by Contractor as servants, agents, or independent contractors, or in any other capacity whatsoever, or make the Authority 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.

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22. **FORCE MAJEURE:** Neither party to this Contract shall be deemed to be in breach of this agreement for any delay or failure in performance caused by reasons out of its reasonable control, including acts of God or a public enemy; natural calamities; failure of a third party to perform; changes in the laws or regulations; actions of any civil, military or regulatory authority; power outage or other disruptions of communication methods or any other cause which would be out of their reasonable control.

23. **ASSIGNMENT:** The Contractor shall not subcontract or assign any part of the services under this Contract without the prior written consent of the Authority.


24. **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, condition, 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.

25. **DEFECTIVE WORK:** The inspection of work shall not relieve the Contractor of any of its obligations to fulfill the terms and conditions of the Contract as herein prescribed. Defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and materials have been previously overlooked by VIHFA's Project Manager and accepted or paid for. If the work or any part thereof shall be found defective at any time before the final acceptance of the whole work, or the final payment thereof, the Contractor shall forthwith make good such defect in a manner satisfactory to VIHFA's Project Manager and replace at its own expense damaged or unsuitable materials with the new material of satisfactory quality.

26. **RIGHT TO WITHHOLD:** If work under this Contract is not performed in accordance with the terms hereof, the Authority will have the right to withhold, out of any payment due to Contractor, such sums as the Authority may deem ample to protect it against loss or to assure payment of claims arising therefrom, and at its option, the Authority may apply such sums in such manner as the Authority may deem proper to secure itself or to satisfy such claims. The Authority will immediately notify the Contractor in writing in the event that it elects to exercise its right to withhold.

27. **TERMINATION:** Either party may terminate the parties' contract with or without cause with **Ten (10) calendar days** written notice to the other party before the effective date of such termination. The VIHFA may, by written notice, terminate the contractor's services, in whole or in part, for failure of the Contractor to perform its obligations under the parties' contract. In such event, the Contractor shall be liable for damages as authorized by law.

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28. **PARTIAL TERMINATION:** The performance of work under this Contract may be terminated by the Authority in part whenever the Authority 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 of 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 ten (10) day notice.

29. **FALSE CLAIMS:**

(1) The Contractor warrants that it shall not, with respect to this Contract, make or present any claim upon or against VIHFA. The Contractor acknowledges that making such a false, fictitious, or fraudulent claim is an offense under the Virgin Islands law.

(2) The Contractor acknowledges that this Contract is funded, in whole or in part, by federal funds. The 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. The Contractor acknowledges that making such false, fictitious, or fraudulent claim is a federal offense.

30. **CONFLICT OF INTEREST:** The Contractor hereby certifies that: no officer, agent or employee of VIHFA has a pecuniary interest in this proposal or has participated in contract negotiations on behalf of the VIHFA; the proposal is made in good faith without fraud, collusion, or connection of any kind with any respondent for the same Request for Proposals; and the Contractor competed solely on its own behalf without connection with, or obligation to, any undisclosed person or firm.

31. **WARRANTY OF NON-SOLICITATION:** The Contractor expressly warrants that it has not employed any person to solicit or obtain this contract on its behalf, or cause or procure the same to be obtained upon compensation in any manner, contingent, in whole or in part, upon such procurement, and that it has not paid, or promised or agreed to pay to any person, in consideration of such procurement, or in compensation for services in connection hereunder; and that it has not, in estimating the contract price demand, included any sum by reason of such brokerage, commission or percentage, and that all monies payable to it hereunder are free from obligation to any other person for services rendered, supposed to have been rendered, in the procurement of this contract. Breach of this warranty shall give VIHFA the right to terminate this Contract or, in its discretion, to deduct from the Contract Cost or consideration the amount of such commission, percentage, brokerage or contingent fees.

32. **PRELIMINARY INSPECTION:** Prior to request for final inspection, the Contractor shall notify VIHFA's Project Manager of the anticipated date of completion so that any major defects or deficiencies may be pointed out to the Contractor for correction prior to the final inspection.

33. **FINAL INSPECTION:** The Scope of Work shall be considered complete upon acceptance by VIHFA after a final inspection conducted by the Architect, and VIHFA's Project Manager.

Contractor's Initials: WC

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34. **RECORDS:** Contractor shall maintain documented, precise records of time and/or monies expended under this Contract for a minimum period of seven (7) years following the completion of the Project.

35. **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, religion, sexual orientation, or national origin.

36. **NOTICE:** Any notices required or permitted to be given under this Contract shall be deemed sufficiently given or served if sent by certified mail, return receipt requested to the parties at the following addresses:

Contractor: **Comfort Cooling, Inc. d/b/a
Caribbean Cooling Company
P.O. Box 993
Christiansted, St. Croix, USVI 00823
Attention: Walton Lawrence, Owner**

Authority: **Virgin Islands Housing Finance Authority
3202 Demarara, No. 3, Suite 200
St. Thomas, U.S. Virgin Islands 00802
Attention: Eugene Jones, Jr., Executive Director**

Either party may, by like notice, at any time and from time to time, designate different addresses to which notices shall be sent. Notices given in accordance with these provisions shall be deemed received when mailed.

37. **SEVERABILITY:** In the event that one or more of the provisions of this Contract shall be found unenforceable, illegal or invalid, it shall not affect any other provisions of this Contract, and this Contract shall be construed as if the provision found to be unenforceable, illegal or invalid had never been contained in the agreement, or the unenforceable, illegal or invalid provision shall be construed, amended and/or reformed to be made enforceable, legal and valid.

38. **GOVERNING LAW AND JURISDICTION:** This agreement shall be governed by and construed pursuant to the laws of the United States Virgin Islands. The parties shall submit disputes arising out of or in connection with this agreement to the exclusive jurisdiction of the courts of the United States Virgin Islands.

39. **ENTIRE CONTRACT:** This Contract constitutes the entire Contract between the parties hereto, and all prior understandings or communications, written or oral, with respect to the work to be done under this contract, are merged herein.

40. **COUNTERPARTS:** This Contract may be signed in counterparts, each of which will be deemed an original.

Contractor's Initials: WL

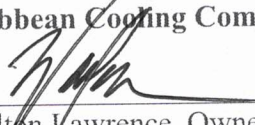
VIHFA's Initials: 

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives on the date(s) written below.

Two (2) Witnesses:

Comfort Cooling, Inc. d/b/a
Caribbean Cooling Company

Print Name: CAROL DENIS

Signature: 

Walton Lawrence, Owner

Signature: 

Dated: 6/24/2024

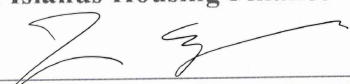
Print Name: Ruthlon Daley

Signature: 

Two (2) Witnesses:

Virgin Islands Housing Finance Authority

Print Name: Claudia Parson

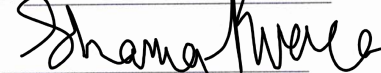
Signature: 

Eugene Jones, Jr., Executive Director

Signature: 

Dated: 6/25/2024

Print Name: Shania Rivera

Signature: 

Reviewed for Legal Sufficiency:



Dated: 6/21/2024

Nycole A. Thompson, Esq.
Legal Counsel