

ATTACHMENT I – CONTRACT

IT Consulting and Technical Services IDIQ

THIS CONTRACT (the “Contract”) is made this 30th 3rd day of ~~April~~^{May}, 2018 by and between V Group Consultancy Services Inc. aka V Group Inc.(V Group) and the MARYLAND HEALTH BENEFIT EXCHANGE, a public corporation and independent unit of the government of the State of Maryland (“MHBE”). Each of the Contractor and MHBE is a “Party” and, together, are the “Parties”.

In consideration of the promises and the covenants herein contained, the adequacy and sufficiency of which is duly acknowledged by the parties, the parties agree as follows:

1. Definitions

In this Contract, the following words have the meanings indicated:

- 1.1 “ACA” means the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148) as amended by the Health Care and Education Reconciliation Act of 2010 (Public Law No. 111-152), together with regulations promulgated pursuant thereto.
- 1.2 “Agency” or “MHBE” means the Maryland Health Benefit Exchange, a public corporation and a unit of State government.
- 1.3 “COMAR” means Code of Maryland Regulations.
- 1.4 “Contract” means this agreement between v Group, Inc. and the Maryland Health Benefit Exchange.
- 1.5 “Contract Monitor” means the following MHBE employee identified as the Contract Monitor or a successor designated by MHBE: Venkat Koshanam, Chief Information Officer.
- 1.6 “Contractor” means V Group, Inc. whose principal business address is 379 Princeton Hightstown Road, Building 3, Suite 2A, Cranbury, NJ 08512 and whose principal office in Maryland is 1519 YORK RD, LUTHERVILLE, MD 21093.
- 1.7 “Effective Date” shall mean July 1, 2018, following full execution of the Contract by the Parties.
- 1.8 “eMM” means eMaryland Marketplace.
- 1.9 “Financial Proposal” means the Contractor’s Financial Proposal dated March 21st, 2018.
- 1.10 “Procurement Officer” means the following MHBE employee identified as the Procurement Officer or a successor designated by the MHBE: Michelle Compton, Procurement Manager.
- 1.11 “Proposal(s)” means, as appropriate, either or both of the Contractor’s Technical or Financial Proposal.
- 1.12 “Protected Health Information” as defined in the HIPAA regulations at 45 C.F.R. 160.103 and 164.501, means information transmitted as defined in the regulations, that is individually identifiable; that is created or received by a healthcare provider, health plan, public health authority, employer, life insurer, school or university, or healthcare clearinghouse; and that is related to the past, present, or future physical or mental health or condition of an individual, to the

provision of healthcare to an individual, or to the past, present, or future payment for the provision of healthcare to an individual. The definition excludes certain education records as well as employment records held by a covered entity in its role as employer

- 1.13 “RFP” means the Request for Proposals for IT Consulting and Technical Services Solicitation # MDM0031036680 and any addenda thereto issued in writing by the State.
- 1.14 “RFR” means a Request for Resume(s).
- 1.15 “Software” means the object code version of computer programs. Embedded code, firmware, internal code, microcode, and any other term referring to software that is necessary for proper operation is included in this definition of Software. Software includes all prior, current, and future versions of the Software and all maintenance updates and error corrections. “Software” also includes any upgrades, updates, bug fixes or modified versions or backup copies of the Software licensed to the State by Contractor or an authorized distributor.
- 1.17 “State” means the State of Maryland, including the Maryland Health Benefit Exchange.
- 1.18 “Task Order Agreement” or “TO Agreement” means a signed agreement between MHBE and the Contractor selected via either a TORFP or an RFR to perform work, as delineated in the Task Order Agreement.
- 1.19 “Task Order Proposal” means the technical and financial response by a Contractor to a TORFP or RFR.
- 1.20 “Task Order Request for Proposals” (TORFP) means a solicitation document containing a description by MHBE of the individual project for which proposals will be solicited.
- 1.21 “Technical Proposal” means the Contractor’s Technical Proposal dated March 21st, 2018
- 1.22 Capitalized terms not defined herein shall have the meanings the RFP provides.
- 1.23 All references in Sections 2.2, 2.3, 4.2 through 4.4 and 6 through 38 herein to this “Contract” shall be deemed to pertain, as appropriate, to this Contract or any TO Agreement hereunder, or both.

2. Scope of Contract

- 2.1 The Contractor shall provide consulting and technical services and materials for MHBE as described in Section 2.0 of the RFP, as well as the TO Agreement and the RFR, in one or more of the ten (10) functional areas identified in the RFP as follows:

- Functional Area 1 - Enterprise Service Provider (ESP)
- Functional Area 2 - Web & Internet Systems
- Functional Area 3 - Electronic Document Management
- Functional Area 4 - Software Engineering
- Functional Area 5 - Systems Management & Maintenance
- Functional Area 6 - Information System Security
- Functional Area 7 - Application Service Provider
- Functional Area 8 - IT Auditing, Testing & QA Service
- Functional Area 9 - IT Management Consulting Services
- Functional Area 10 Documentation/Technical Writing

These services shall be provided in accordance with the terms and conditions of this Contract and the following Exhibits, which are attached and incorporated herein by reference. If there are any inconsistencies between this Contract and Exhibits A through J, the terms of this Contract shall control. If there is any conflict among Exhibits A through H, on the one hand, and Exhibit I or Exhibit J, as applicable, on the other, the terms of Exhibit I or Exhibit J, as applicable, shall control. If there is any conflict among Exhibits A through H, the order of precedence shown below shall determine the prevailing provision.

Exhibit A - The RFP.

Exhibit B - Task Order Agreement (when executed).

Exhibit C - TORFP/RFR

Exhibit D - Master Contractor's response to the TORFP/RFR.

Exhibit E - The Technical Proposal to the RFP.

Exhibit F - The Financial Proposal to the RFP.

Exhibit G - Federal Funds Requirements and Restrictions, including its attachments (G-1, G-2, G-3).

Exhibit H - State Contract Affidavit, executed by the Contractor and dated March 19th, 2018

Exhibit I - Non-Exchange Entity Agreement.

Exhibit J - Business Associate Agreement (when executed, where Contractor's execution required).

- 2.2 The Procurement Officer may, at any time, by written order, make changes in the work within the general scope of the Contract or the RFP. No other order, statement, or conduct of the Procurement Officer or any other person shall be treated as a change or entitle the Contractor to an equitable adjustment under this section. Except as otherwise provided in this Contract, if any change under this section causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the work, whether or not changed by the order, an equitable adjustment in the Contract price shall be made and the Contract modified in writing accordingly. The Contractor must assert in writing its right to an adjustment under this section within thirty (30) days of receipt of written change order and shall include a written statement setting forth the nature and cost of such claim. No claim by the Contractor shall be allowed if asserted after final payment under this Contract. Failure to agree to an adjustment under this section shall be a dispute under the Disputes clause. Nothing in this section shall excuse the Contractor from proceeding with the Contract as changed.
- 2.3 Without limiting the rights of the Procurement Officer in Section 2.2 above, the Contract may be modified by mutual agreement of the parties, provided: (a) the modification is made in writing; (b) all parties sign the modification; and (c) all required approvals are obtained.
- 2.4 Contracts awarded in violation of the MHBE Procurement Policies and Procedures shall be voidable at the election of MHBE.

3. Period of Performance.

- 3.1 The Contractor shall provide services and materials in accordance with this Contract and any TO Agreement issued hereunder.
- 3.2 The Contract shall be effective as of July 1, 2018 following its full execution by the Parties. From this date, the Contract shall be for a base period of three (3) years, beginning on or about July 1, 2018 and ending on or about June 30, 2021, unless terminated earlier as provided in this Master Contract and two, one-year renewal options at the sole discretion of the MHBE.

- 3.3 The Contractor shall provide services and materials under this Contract as of the date provided in a written Notice to Proceed from the Procurement Officer, as set forth in a Task Order Agreement or as directed by the Contract Monitor following the execution of a Task Order Agreement.
- 3.4 All maximum prices for rates as well as the terms offered in RFP Attachments B, B-1 and B-2 are binding on the Contractor for the term of the Contract.

4. Consideration and Payment

- 4.1 In consideration of the satisfactory performance of the work set forth in this Contract and any TO Agreement, MHBE shall pay the Contractor in accordance with the rates established in the Contractor's TO/RFR Proposal, if incorporated into a Task Order Agreement, which may not exceed the rates and terms of Exhibit F, Contractor's Financial Proposal. TO Agreements that are on a time and materials basis shall include a not to exceed ("NTE") ceiling for payments. Any work performed by the Contractor in excess of the NTE ceiling amount of any TO Agreement without the prior written approval of the Contract Monitor is at the Contractor's risk of non-payment.
 - 4.2 Invoices must be provided in the format and on the schedule identified in the TORFP/RFR, where the format and schedule are is identified therein. Each invoice must reflect the Contractor's federal tax identification number, which is 52-2175892. The Contractor's eMM identification number is 265742. Payments to the Contractor pursuant to this Contract shall be made no later than 30 days after MHBE's receipt of a proper invoice from the Contractor, acceptance by MHBE and pursuant to the conditions outlined in Consideration and Payment section of this Contract. Charges for late payment of invoices, other than as prescribed by Title 15, Subtitle 1, of the State Finance and Procurement Article, Annotated Code of Maryland, are prohibited. Invoices shall be submitted to the Contract Monitor via hbe.finance@maryland.gov. Electronic funds transfer shall be used by the State to pay Contractor pursuant to this Contract and any other State payments due Contractor unless the State Comptroller's office grants Contractor an exemption. A TO Agreement may specify periodic payments based on deliverables or stages of completion. A TO Agreement may specify that a portion of the payments due will be withheld until completion of the TO Agreement. The amount withheld from each payment shall be paid to the Contractor within thirty (30) days of MHBE's acceptance of all deliverables required under the TO Agreement and receipt from the Contractor of a release in a form prescribed by the State for any claims arising out of or related to the TO/RFR Agreement.
 - 4.3 In addition to any other available remedies, if, in the opinion of the Procurement Officer, the Contractor fails to perform in a satisfactory and timely manner, the Procurement Officer may refuse or limit approval of any invoice for payment, and may cause payments to the Contractor to be reduced or withheld until such time as the Contractor meets performance standards as established by the Procurement Officer.
 - 4.4 Payment of an invoice by the MHBE is not evidence that services were rendered as required under this Contract.
- #### **5. TORFPs/RFRs**
- A TORFP/RFR may specify terms in addition to the terms specified herein. Such additional terms may include warranties, deliverables, and acceptance test requirements. A TO Agreement may

not limit the State's rights as provided by law, in this Contract, or in the RFP and may not change the terms of this Contract or the RFP.

6. Rights to Records

- 6.1 The Contractor agrees that all documents and materials including, but not limited to, Software, reports, drawings, studies, specifications, estimates, tests, maps, photographs, designs, graphics, mechanical, artwork, computations, and data prepared by the Contractor for purposes of this Contract shall be the sole property of the State and shall be available to the State at any time. The State shall have the right to use the same without restriction and without compensation to the Contractor other than that specifically provided by this Contract.
- 6.2 The Contractor agrees that at all times during the term of this Contract and thereafter, works created as a Deliverable under this Contract (as defined in Section 8.2), and services performed under this Contract shall be "works made for hire" as that term is interpreted under U.S. copyright law. To the extent that any products created as a deliverable under this Contract are not works made for hire for the State, the Contractor hereby relinquishes, transfers, and assigns to the State all of its rights, title, and interest (including all intellectual property rights) to all such products created under this Contract, and will cooperate reasonably with the State in effectuating and registering any necessary assignments.
- 6.3 The Contractor shall report to the Contract Monitor, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all data delivered under this Contract.
- 6.4 The Contractor shall not affix any restrictive markings upon any data, documentation, or other materials provided to the State hereunder and if such markings are affixed, the State shall have the right at any time to modify, remove, obliterate, or ignore such warnings.
- 6.5 Upon termination of the Contract, the Contractor, at its own expense, shall deliver any equipment, software or other property provided by the State to the place designated by the Procurement Officer.

7. Exclusive Use

- 7.1 The State shall have the exclusive right to use, duplicate, and disclose any data, information, documents, records, or results, in whole or in part, in any manner for any purpose whatsoever, that may be created or generated by the Contractor in connection with this Contract. If any material, including software, is capable of being copyrighted, the State shall be the copyright owner and Contractor may copyright material connected with this project only with the express written approval of the State.
- 7.2 Except as may otherwise be set forth in this Contract, Contractor shall not use, sell, sub-lease, assign, give, or otherwise transfer to any third party any other information or material provided to Contractor by the MHBE or developed by Contractor relating to the Contract, except as provided for in Section 9 ("Confidential or Proprietary Information and Documentation").

8. Patents, Copyrights, and Intellectual Property

- 8.1 All copyrights, patents, trademarks, trade secrets, and any other intellectual property rights existing prior to the Effective Date of this Contract shall belong to the party that owned such

rights immediately prior to the Effective Date (“Pre-Existing Intellectual Property”). If any design, device, material, process, or other item provided by Contractor is covered by a patent or copyright or which is proprietary to or a trade secret of another, the Contractor shall obtain the necessary permission or license to permit the State to use such item or items pursuant to its rights granted under the Contract .

- 8.2 Except for (1) information created or otherwise owned by the State or licensed by the State from third parties, including all information provided by the MHBE to Contractor; (2) materials created by Contractor or its subcontractor(s) specifically for the State under the Contract (“Deliverables”), except for any Contractor Pre-Existing Intellectual Property included therein; and (3) the license rights the Contractor grants to the State, all right, title, and interest in the intellectual property embodied in the solution, including the know-how and methods by which the solution is provided and the processes that make up the solution, will belong solely and exclusively to Contractor and its licensors, and the MHBE will have no rights to the same except as expressly granted in this Contract. For all Software provided by the Contractor under the Contract, Contractor hereby grants to the State a nonexclusive, irrevocable, unlimited, perpetual, non-cancelable, and non-terminable right to use and make copies of the Software and any modifications to the Software. For all Contractor Pre-Existing Intellectual Property embedded in any Deliverables, Contractor grants to the State a license to use such Contractor Pre-Existing Intellectual Property in connection with its permitted use of such Deliverable. During the period between delivery of a Deliverable by Contractor and the date of payment therefor by the State in accordance with this Contract (including throughout the duration of any payment dispute discussions), subject to the terms and conditions contained herein, Contractor grants the State a royalty-free, non-exclusive, limited license to use such Deliverable and to use any Contractor Materials contained therein in accordance with this Contract.
- 8.3 Subject to the terms of Section 11 (Indemnification and Notification of Legal Requests), Contractor shall defend, indemnify and hold harmless the State and its agents and employees, from and against any and all claims, costs, losses, damages, liabilities, judgments and expenses (including without limitation reasonable attorneys’ fees) arising out of or in connection with any third party claim that the Contractor-provided products/services infringe, misappropriate or otherwise violate any third party intellectual property rights. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State’s rights or interests, without the State’s prior written consent.
- 8.4 Without limiting Contractor’s obligations under Section 8.3, if an infringement claim occurs, or if the State or the Contractor believes such a claim is likely to occur, Contractor (after consultation with the State and at no cost to the State): (a) shall procure for the State the right to continue using the allegedly infringing component or service in accordance with its rights under this Contract; or (b) replace or modify the allegedly infringing component or service so that it becomes non-infringing and remains compliant with all applicable specifications.
- 8.5 Except as otherwise provided herein, Contractor shall not acquire any right, title or interest (including any intellectual property rights subsisting therein) in or to any goods, Software, technical information, specifications, drawings, records, documentation, data or any other materials (including any derivative works thereof) provided by the State to the Contractor. Notwithstanding anything to the contrary herein, the State may, in its sole and absolute discretion, grant the Contractor a license to such materials, subject to the terms of a separate writing executed by the Contractor and an authorized representative of the State as well as all required State approvals..

8.6 Without limiting the generality of the foregoing, neither Contractor nor any of its subcontractors shall use any Software or technology in a manner that will cause any patents, copyrights or other intellectual property which are owned or controlled by the State or any of its affiliates (or for which the State or any of its subcontractors has received license rights) to become subject to any encumbrance or terms and conditions of any third party or open source license (including, without limitation, any open source license listed on <http://www.opensource.org/licenses/alphabetical>) (each an "Open Source License"). These restrictions, limitations, exclusions and conditions shall apply even if the State or any of its subcontractors becomes aware of or fails to act in a manner to address any violation or failure to comply therewith. No act by the State or any of its subcontractors that is undertaken under this Contract as to any Software or technology shall be construed as intending to cause any patents, copyrights or other intellectual property that are owned or controlled by the State (or for which the State has received license rights) to become subject to any encumbrance or terms and conditions of any open source license.

8.7 The Contractor shall report to the MHBE, promptly and in written detail, each notice or claim of copyright infringement received by the Contractor with respect to all Deliverables delivered under this Contract.

8.8 The Contractor shall not affix (or permit any third party to affix), without the MHBE's consent, any restrictive markings upon any Deliverables that are owned by the State, and if such markings are affixed, the MHBE shall have the right at any time to modify, remove, obliterate, or ignore such warnings.

9. Confidential or Proprietary Information and Documentation

9.1 Subject to the Maryland Public Information Act and any other applicable laws including, without limitation, the ACA, HIPAA, the HI-TECH Act, and the Maryland Medical Records Act and the implementation of regulations promulgated pursuant thereto, all confidential or proprietary information and documentation relating to either party (including without limitation, any information or data stored within the Contractor's computer systems and/or cloud infrastructure, if applicable) shall be held in absolute confidence by the other party. Each party shall, however, be permitted to disclose relevant confidential information to its officers, agents, and employees to the extent that such disclosure is necessary for the performance of their duties under this Contract, provided that the data may be collected, used, disclosed, stored, and disseminated only as provided by and consistent with the law, including the ACA and 45 C.F.R. § 155.260, and the Non-Exchange Entity Agreement, Non-Disclosure Agreement and any Business Associate Agreement incorporated into this Contract pursuant to Section 2.1, above. Each officer, employee and/or subcontractor to whom MHBE's confidential information is to be disclosed shall be advised by the Contractor and bound by confidentiality and intellectual property terms substantially equivalent to those of this Contract. The provisions of this section shall not apply to information that: (a) is lawfully in the public domain; (b) has been independently developed by the other party without violation of this Contract; (c) was already in the possession of such party; (d) was supplied to such party by a third party lawfully in possession thereof and legally permitted to further disclose the information; or (e) which such party is required to disclose by law.

9.2 More particularly, the Contractor's access to Personally identifiable Information under the Contract shall make it a "Non-Exchange Entity", as that term is defined in 45 C.F.R. § 155.260(b)(1). The Contractor therefore shall keep information obtained in the course of this

Contract confidential in compliance with the ACA, including, without limitation, 45 C.F.R. § 155.260, and the Non-Exchange Entity Agreement incorporated into this Contract pursuant to Section 2.1, above. The Contractor agrees further to comply with any applicable State and federal confidentiality requirements regarding collection, maintenance, and use of health, personally identifiable, and financial information. This obligation includes providing training and information to employees regarding confidentiality obligations as to personally identifiable, and financial information and securing acknowledgement of these obligations from employees to be involved in the Contract. This obligation further includes restricting use and disclosure of the records, generally providing safeguards against misuse of information, keeping a record of any disclosures of information, providing all necessary procedural and legal protection for any disclosures of information, promptly responding to any requests by MHBE for information about its privacy practices in general or with respect to a particular individual, modifying information as may be required by good professional practice as authorized by law, and otherwise providing good information management practices regarding all health, personally identifiable, and financial information.

9.3 The Contractor acknowledges its duty to become familiar and comply, to the extent applicable, with all requirements of the federal Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. §§ 1320d et seq., and implementing regulations including 45 C.F.R. Parts 160 and 164. The Contractor also agrees to comply with the Maryland Confidentiality of Medical Records Act (MCMRA), Md. Code Ann. Health-General §§ 4-301 et seq. This obligation includes:

- (a) As necessary, adhering to the privacy and security requirements for protected health information and medical records under HIPAA and MCMRA and making the transmission of all electronic information compatible with the HIPAA requirements;
- (b) Providing training and information to employees regarding confidentiality obligations as to health and financial information and securing acknowledgement of these obligations from employees to be involved in the contract; and
- (c) Otherwise providing good information management practices regarding all health information and medical records.

9.4 If in connection with the procurement or at any time during the term of the Contract, the MHBE determines that functions to be performed in accordance with the scope of work set forth in the solicitation constitute business associate functions as defined in HIPAA, the Contractor acknowledges its obligation to execute a business associate agreement as required by HIPAA regulations at 45 C.F.R. 164.502 and in the form required by the MHBE.

9.5 This Section 9 shall survive expiration or termination of this Contract.

10. Loss of Data

In the event of loss of any State data or records where such loss is due to the act or omission of the Contractor or any of its subcontractors or agents, the Contractor shall be responsible for restoring or recreating, as applicable, such lost data in the manner and on the schedule set by the Contract Monitor. The Contractor shall ensure that all data is backed up and recoverable by the Contractor. At no time shall any Contractor actions (or any failures to act when Contractor has a duty to act) damage or create any vulnerabilities in data bases, systems, platforms, and/or applications with which the Contractor is working hereunder.

11. Indemnification and Notification of Legal Requests

- 11.1 At its sole cost and expense, Contractor shall (i) indemnify and hold the State, its employees and agents harmless from and against any and all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs and expenses (including but not limited to attorneys' fees and costs), whether or not involving a third party claim, which arise out of or relate to the Contractor's, or any of its subcontractors', performance of this Contract and (ii) cooperate, assist, and consult with the State in the defense or investigation of any such claim, demand, action or suit. Contractor shall not enter into any settlement involving third party claims that contains any admission of or stipulation to any guilt, fault, liability or wrongdoing by the State or that adversely affects the State's rights or interests, without the State's prior written consent.
- 11.2 The State has no obligation: (i) to provide legal counsel or defense to the Contractor or its subcontractors in the event that a suit, claim or action of any character is brought against the Contractor or its subcontractors as a result of or relating to the Contractor's obligations or performance under this Contract, or (ii) to pay any judgment or settlement of any such suit, claim or action. Notwithstanding the foregoing, the Contractor shall promptly notify the Procurement Officer of any such claims, demands, actions, or suits.
- 11.3 Notification of Legal Requests. In the event the Contractor receives a subpoena or other validly issued administrative or judicial process, or any discovery request in connection with any litigation, requesting State Pre-Existing Intellectual Property, of other information considered to be the property of the State, including but not limited to State data stored with or otherwise accessible by the Contractor, the Contractor shall not respond to such subpoena, process or other legal request without first notifying the State, unless prohibited by law from providing such notice. The Contractor shall promptly notify the State of such receipt providing the State with a reasonable opportunity to intervene in the proceeding before the time that Contractor is required to comply with such subpoena, other process or discovery request.
- 11.4 Contractor shall comply with any written request issued by Procurement Officer or Office of the Attorney General to retain documents and electronically stored information in anticipation of litigation at no additional cost to the State.
- 11.5 This indemnification clause shall not be construed to mean that the Contractor shall indemnify the State against liability for any losses, damages, claims, suits, actions, liabilities, and/or expenses that are attributable to the sole negligence of the State or the State's employees.
- 11.6 Section 11 shall survive expiration or termination of this Contract.

12. Non-Hiring of Employees

No official or employee of the State, as defined under Md. Code Ann., General Provisions Article, § 5-101, whose duties as such official or employee include matters relating to or affecting the subject matter of this Contract, shall, during the pendency and term of this Contract and while serving as an official or employee of the State, become or be an employee of the Contractor or any entity that is a subcontractor on this Contract.

13. Disputes

- 13.1 As used herein, a “claim” means a written demand or assertion by one of the parties seeking, as a legal right, the payment of money, adjustment, or interpretation of contract terms, or other relief, arising under or relating to this Contract. A voucher, invoice, or request for payment that is not in dispute when submitted is not a claim. However, if the submission subsequently is not acted upon in a reasonable time, or is disputed as to liability or amount, it may be converted to claim for the purpose of this clause.
- 13.2 Within thirty (30) days of when the Contractor knows or should have known of the basis for a claim relating to the Contract, it shall file a written notice of claim on its letterhead to the Procurement Officer. Contemporaneously with, or within thirty (30) days after filing the notice of claim, the Contractor shall submit the written claim to the Procurement Officer. The claim shall be in writing and shall contain: (a) An explanation of the claim, including reference to all contract provisions upon which it is based; (b) The amount of the claim; (c) The facts upon which the claim is based; (d) All pertinent data and correspondence that the Contractor relies upon to substantiate the claim; and (e) a certification by a senior official, officer, or general partner of the Contractor or the subcontractor, as applicable, that, to the best of the person’s knowledge and belief, the claim is made in good faith, supporting data are accurate and complete, and the amount requested accurately reflects the contract adjustment for which the person believes the MHBE is liable. The Procurement Officer shall issue a final, written decision on the claim as expeditiously as possible. Any final decision of the Procurement Officer may award a Contract claim only for those expenses incurred not more than thirty (30) days before the contractor initially filed its notice of claim.
- 13.3 If the final decision of the Procurement Officer grants the claim in part and denies the claim in part, the MHBE shall pay the Contractor the undisputed amount. Payment of the partial claim shall not be construed as an admission of liability by the MHBE and does not preclude the MHBE from recovering the amount paid if a subsequent determination modifies the final decision.
- 13.4 Within ten (10) days of receipt of the final decision of the Procurement Officer, the Contractor may file a notice of appeal to the MHBE Executive Director for claims for monetary amounts less than \$50,000, and to the Board of Trustees for either claims for monetary amounts of \$50,000 or greater or for claims involving non-monetary relief. Contemporaneously with, or within twenty (20) days after filing the notice of appeal, the Contractor shall submit its written appeal to the MHBE Executive Director or Board of Trustees as applicable. The Executive Director shall issue a final decision resolving the appeal of claims for monetary amounts less than \$50,000. The Board of Trustees shall issue a final decision resolving appeals of claims for \$50,000 or more and those for non-monetary relief. The Contractor’s timely appeal to the Executive Director or the Board of Trustees shall be a strict condition precedent to the Contractor pursuing any legal rights which it alleges or which may exist in any other forum.
- 13.5 Pending resolution of a claim, the Contractor shall proceed diligently with the performance of the Contract in accordance with the Procurement Officer’s decision.
- 13.6 Nothing in this section shall be construed to limit the MHBE’s right to withhold payments from the Contractor, assess liquidated damages against the Contractor, direct the Contractor to perform pursuant to the terms of the Contract or any written change order, or to exercise any other rights allowed by Contract or at law.

14. Maryland Law

- 14.1 This Contract shall be construed, interpreted, and enforced according to the laws of the State of Maryland.
- 14.2 The Maryland Uniform Computer Information Transactions Act (Commercial Law Article, Title 22 of the Annotated Code of Maryland), does not apply to this Contract or any purchase order or Notice to Proceed or Task Order issued under this Contract, or any software, or any software license required hereunder.
- 14.3 Any and all references to the Maryland Code, Annotated contained in this Contract shall be construed to refer to such Code sections as are from time to time amended.

15. Nondiscrimination in Employment

The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, sexual orientation, gender identification, marital status, national origin, ancestry, genetic information, or any otherwise unlawful use of characteristics, or disability of a qualified individual with a disability unrelated in nature and extent so as to reasonably preclude the performance of the employment, or the individual's refusal to submit to a genetic test or make available the results of a genetic test; (b) to include a provision similar to that contained in subsection (a), above, in any underlying subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

16. Contingent Fee Prohibition

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

17. Non-Availability of Funding

If the General Assembly fails to appropriate funds or if funds are not otherwise made available for continued performance for any fiscal period of this Contract succeeding the first fiscal period of a Task Order under this Contract, the Task Order shall be canceled automatically as of the beginning of the fiscal year for which funds were not appropriated or otherwise made available; provided, however, that this will not affect either the State's rights or the Contractor's rights under any termination clause in this Contract. The effect of termination of the Task Order hereunder will be to discharge both the Contractor and the State of Maryland from future performance of the Task Order, but not from their rights and obligations existing at the time of termination. The Contractor shall be reimbursed for the reasonable value of any nonrecurring costs incurred but not amortized in the price of the Task Order. The State shall notify the Contractor as soon as it has knowledge that funds may not be available for the continuation of this Contract for each succeeding fiscal period beyond the first.

18. Termination for Default

If the Contractor fails to fulfill its obligations under this Contract properly and on time, or otherwise violates any provision of the Contract, the State may terminate the Contract by written notice to the Contractor. The notice shall specify the acts or omissions relied upon as cause for termination. All finished or unfinished work provided by the Contractor shall, at the State's option, become the State's property. The State shall pay the Contractor fair and equitable compensation for satisfactory performance prior to receipt of notice of termination, less the amount of damages caused by the Contractor's breach. If the damages are more than the compensation payable to the Contractor, the Contractor will remain liable after termination and the State can affirmatively collect damages. Termination hereunder, including the termination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.11B.

19. Termination for Convenience

The performance of work under this Contract may be terminated by the State in accordance with this clause in whole, or from time to time in part, whenever the State shall determine that such termination is in the best interest of the State. The State will pay all reasonable costs associated with this Contract that the Contractor has incurred up to the date of termination, and all reasonable costs associated with termination of the Contract; provided, however, the Contractor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.01.12A(2).

20. Delays and Extensions of Time

20.1 The Contractor agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays, interruptions, interferences, or hindrances from any cause whatsoever during the progress of any portion of the work specified in this Contract.

20.2 Time extensions will be granted only for excusable delays that arise from unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including but not restricted to, acts of God, acts of the public enemy, acts of the State in either its sovereign or contractual capacity, acts of another Contractor in the performance of a contract with the State, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, or delays of subcontractors or suppliers arising from unforeseeable causes beyond the control and without the fault or negligence of either the Contractor or the subcontractors or suppliers.

21. Suspension of Work

The State unilaterally may order the Contractor in writing to suspend, delay, or interrupt all or any part of its performance for such period of time as the Procurement Officer may determine to be appropriate for the convenience of the State.

22. Pre-Existing Regulations

The regulations set forth in Title 21 of the Code of Maryland Regulations ("COMAR 21") are applicable to this Contract where expressly referenced. In such cases, the referenced COMAR 21 regulation in effect on the date of execution of this Contract is applicable to this Contract.

23. Financial Disclosure

The Contractor shall comply with the provisions of Md. Code Ann., State Finance and Procurement Article, § 13-221, which requires that every person that enters into contracts, leases, or other agreements with the State or its agencies during a calendar year under which the business is to receive in the aggregate, \$100,000 or more, shall within thirty (30) days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000, file with the Secretary of the State certain specified information to include disclosure of beneficial ownership of the business.

24. Political Contribution Disclosure

The Contractor shall comply with Md. Code Ann., Election Law Article, Title 14, which requires that every person that enters into a contract for a procurement with the State, a county, or a municipal corporation, or other political subdivision of the State, during a calendar year in which the person receives a contract with a governmental entity in the amount of \$200,000 or more, shall, file with the State Board of Elections statements disclosing: (a) any contributions made during the reporting period to a candidate for elective office in any primary or general election; and (b) the name of each candidate to whom one or more contributions in a cumulative amount of \$500 or more were made during the reporting period. The statement shall be filed with the State Board of Elections: (a) before execution of a contract by the State, a county, a municipal corporation, or other political subdivision of the State, and shall cover the 24 months prior to when a contract was awarded; and (b) if the contribution is made after the execution of a contract, then twice a year, throughout the contract term, on or before: (i) May 31, to cover the six (6) month period ending April 30; and (ii) November 30, to cover the six (6) month period ending October 31. Additional information is available on the State Board of Elections website: http://www.elections.state.md.us/campaign_finance/index.html.

25. Documents Retention and Inspection Clause

The Contractor and subcontractors shall retain and maintain all records and documents relating to this Contract for a period of ten (10) years after final payment by the State hereunder or any applicable statute of limitations or federal retention requirements (such as HIPPA) or condition of award, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the State, including the Procurement Officer or designee, at all reasonable times. All records related in any way to the Contract are to be retained for the entire time provided under this section. In the event of any audit, the Contractor shall provide assistance to the State, without additional compensation, to identify, investigate, and reconcile any audit discrepancies and/or variances. This Section 24 shall survive expiration or termination of the Contract.

26. Right to Audit

26.1 The State reserves the right, at its sole discretion and at any time, to perform an audit of the Contractor's and/or subcontractor's performance under this Contract. An audit is defined as a planned and documented independent activity performed by qualified personnel including but not limited to State and federal auditors, to determine by investigation, examination, or evaluation of objective evidence from data, statements, records, operations and performance practices (financial or otherwise) the Contractor's compliance with the Contract, including but not limited

to adequacy and compliance with established procedures and internal controls over the Contract services being performed for the MHBE.

- 26.2 Upon three (3) Business Days' notice, the Contractor and/or any subcontractors shall provide the State reasonable access to their respective records to verify conformance to the terms of the Contract. The MHBE may conduct these audits with any or all of its own internal resources or by securing the services of a third party accounting or audit firm, solely at the MHBE's election. The MHBE may copy, at its own expense, any record related to the services performed and provided under this Contract. The Contractor agrees to fully cooperate and assist in any audit conducted by or on behalf of the State, including, by way of example only, making records and employees available as, where, and to the extent requested by the State and by assisting the auditors in reconciling any audit variances. Contractor shall not be compensated for providing any such cooperation and assistance unless otherwise noted herein
- 26.3 The right to audit shall include any of the Contractor's subcontractors including but not limited to any lower tier subcontractor(s) that provide essential support to the Contract services. The Contractor and/or subcontractor(s) shall ensure the MHBE has the right to audit such subcontractor(s).
- 26.4 The Contractor and/or subcontractors shall cooperate with MHBE and MHBE's designated accountant or auditor and shall provide the necessary assistance for the MHBE or MHBE's designated accountant or auditor to conduct the audit.
- 26.5 This Section shall survive expiration or termination of the Contract.

27. Compliance with Laws

The Contractor hereby represents and warrants that:

- 27.1 It is qualified to do business in the State and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- 27.2 It is not in arrears with respect to the payment of any monies due and owing the State, or any department or unit thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not become so in arrears during the term of this Contract;
- 27.3 It shall comply with all federal, State and local laws, regulations, and ordinances applicable to its activities and obligations under this Contract; and
- 27.4 It shall obtain, at its expense, all licenses, permits, insurance, and governmental approvals, if any, necessary to the performance of its obligations under this Contract.

28. Cost and Price Certification

- 28.1 By submitting cost or price information, the Contractor certifies to the best of its knowledge that the information submitted is accurate, complete, and current as of the date of its Proposal.
- 28.2 The price under this Contract and any change order or modification hereunder, including profit or

fee, shall be adjusted to exclude any significant price increases occurring because the Contractor furnished cost or price information which, as of the date of its Proposal, was inaccurate, incomplete, or not current.

29. Subcontracting; Assignment

The Contractor may not subcontract any portion of the services provided under this Contract without obtaining the prior written approval of the Procurement Officer, nor may the Contractor assign this Contract or any of its rights or obligations hereunder, without the prior written approval of the Procurement Officer; provided, however, that a Contractor may assign monies receivable under a contract after due notice to the State. Any subcontracts shall include such language as may be required in various clauses contained within this Contract, exhibits, and attachments. The Contract shall not be assigned until all approvals, documents, and affidavits are completed and properly registered. The State shall not be responsible for fulfillment of the Contractor's obligations to its subcontractors.

30. Liability

For breach of this Contract, negligence, misrepresentation, or any other contract or tort claim, the Contractor shall be liable as follows:

- 30.1 For infringement of patents, copyrights, trademarks, service marks, and/or trade secrets, as provided in Section 8 ("Patents, Copyrights, and Intellectual Property") of this Contract;
- 30.2 Without limitation for damages for bodily injury (including death) and damage to real property and tangible personal property; and
- 30.3 For a breach of Personally Identifiable Information or Federal Tax Information, as provided in the Non-Exchange Entity Agreement. For a breach of Protected Health Information, as provided in any Business Associate Agreement executed in conjunction with a Task Order.
- 30.4 For all other claims, damages, losses, costs, expenses, suits, or actions in any way related to this Contract where liability is not otherwise set forth as being "without limitation", and regardless of the basis on which the claim is made, Contractor's liability shall not exceed three (3) times the value of the Contract. Third-party claims arising under Section 11 ("Indemnification and Notification of Legal Requests") of this Contract are included in this limitation of liability only if the State is immune from liability. Contractor's liability for third-party claims arising under Section 11 of this Contract, including for intellectual property infringement, bodily injury, damage to real property, damage to tangible personal property and claims related to breach of PII, FTI or PHI, shall be unlimited if the State is not immune from liability for claims arising under Section 11.

31. Commercial Nondiscrimination

- 31.1 As a condition of entering into this Contract, the Contractor represents and warrants that it will comply with the State's Commercial Nondiscrimination Policy, as described at Md. Code Ann., State Finance and Procurement Article, Title 19. As part of such compliance, the Contractor may not discriminate on the basis of race, color, religion, ancestry or national origin, sex, age, marital status, sexual orientation, sexual identity, genetic information or an individual's refusal to submit to a genetic test or make available the results of a genetic test or on the basis of disability or other

unlawful forms of discrimination in the solicitation, selection, hiring, or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Contractor retaliate against any person for reporting instances of such discrimination. The Contractor shall provide equal opportunity for subcontractors, vendors, and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that this clause does not prohibit or limit lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the marketplace. The Contractor understands that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Contractor from participating in State contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

- 31.2 The Contractor shall include the above Commercial Nondiscrimination clause, or similar clause approved by the MHBE, in all subcontracts.
- 31.3 As a condition of entering into this Contract, upon the request of the Commission on Civil Rights, and only after the filing of a complaint against Contractor under Md. Code Ann., State Finance and Procurement Article, Title 19, as amended from time to time, Contractor agrees to provide within sixty (60) days after the request a complete list of the names of all Subcontractors, vendors, and suppliers that Contractor has used in the past four (4) years on any of its contracts that were undertaken within the State of Maryland, including the total dollar amount paid by Contractor on each subcontract or supply contract. Contractor further agrees to cooperate in any investigation conducted by the State pursuant to the State's Commercial Nondiscrimination Policy as set forth at Md. Code Ann., State Finance and Procurement Article, Title 19, and to provide any documents relevant to any investigation that are requested by the State. Contractor understands that violation of this clause is a material breach of this Contract and may result in contract termination, disqualification by the State from participating in State contracts, and other sanctions.

32. Prompt Pay Requirements

- 32.1 If the Contractor withholds payment of an undisputed amount to its subcontractor, the MHBE, at its option and in its sole discretion, may take one or more of the following actions:
- a. Not process further payments to the contractor until payment to the subcontractor is verified;
 - b. Suspend all or some of the contract work without affecting the completion date(s) for the contract work;
 - c. Pay or cause payment of the undisputed amount to the subcontractor from monies otherwise due or that may become due;
 - d. Place a payment for an undisputed amount in an interest-bearing escrow account; or
 - e. Take other or further actions as appropriate to resolve the withheld payment.
- 32.2 An "undisputed amount" means an amount owed by the Contractor to a subcontractor for which there is no good faith dispute. Such "undisputed amounts" include, without limitation:
- a. Retainage which had been withheld and is, by the terms of the agreement between the Contractor and subcontractor, due to be distributed to the subcontractor; and
 - b. An amount withheld because of issues arising out of an agreement or occurrence unrelated to the agreement under which the amount is withheld.

- 32.3 An act, failure to act, or decision of a Procurement Officer or a representative of the MHBE, concerning a withheld payment between the Contractor and a subcontractor under this provision, may not:
- Affect the rights of the contracting parties under any other provision of law;
 - Be used as evidence on the merits of a dispute between the MHBE and the contractor in any other proceeding; or
 - Result in liability against or prejudice the rights of the MHBE.

33. Use of Estimated Quantities

Unless specifically indicated otherwise in the State's solicitation or other controlling documents related to the Scope of Work, any sample amounts provided are estimates only and the MHBE does not guarantee a minimum or maximum number of units or usage in the performance of this Contract.

34. Contract Monitor and Procurement Officer

The work to be accomplished under this Contract shall be performed under the direction of the Contract Monitor. All matters relating to the interpretation of this Contract shall be referred to the Procurement Officer for determination.

35. Notices

All notices hereunder shall be in writing and either delivered personally or sent by certified or registered mail, postage prepaid, as follows:

If to the State: Michelle Compton
Procurement Officer
750 East Pratt Street, 6th Floor
Baltimore, MD 21202

If to the Contractor: HR & Contracts V Group Inc.
379 Princeton Hightstown Road, Building 3, Suite 2A, Cranbury, NJ
08512
e-mail: mdbids@vgroupinc.com
Phone: 609-371-5400

36. Federal Funds Requirements and Restrictions

This Contract contains federal Medicaid Funds (CFDA number 93.778). Execution of this Contract indicates Contractor's agreement with all federal funding terms and conditions that apply to contractors receiving federal funds from the above referenced source, including but not limited to those required by 45 C.F.R. § 75.335, Appendix II to Part 75 of Title 45 of the Code of Federal Regulations and Attachment G of the RFP (including G-1 and G-2). Attachment G of the RFP is incorporated into this Contract pursuant to Section 2.1, above.

37. Parent Company Guarantee

(Corporate name of Contractor's Parent Company) hereby guarantees absolutely the full, prompt, and complete performance by (Contractor) of all the terms, conditions and obligations contained in this Contract, as it may be amended from time to time, including any and all exhibits that are now or may become incorporated hereunto, and other obligations of every nature and kind that now or may in the future arise out of or in connection with this Contract, including any and all financial commitments, obligations, and liabilities. (Corporate name of Contractor's Parent Company) may not transfer this absolute guaranty to any other person or entity without the prior express written approval of the State, which approval the State may grant, withhold, or qualify in its sole and absolute subjective discretion. (Corporate name of Contractor's Parent Company) further agrees that if the State brings any claim, action, lawsuit or proceeding against (Contractor), (Corporate name of Contractor's Parent Company) may be named as a party, in its capacity as Absolute Guarantor.

38. Miscellaneous

- 38.1 Any provision of this Contract which contemplates performance or observance subsequent to any termination or expiration of this Contract shall survive termination or expiration of this Contract and continue in full force and effect.
- 38.2 If any term contained in this Contract is held or finally determined to be invalid, illegal, or unenforceable in any respect, in whole or in part, such term shall be severed from this Contract, and the remaining terms contained herein shall continue in full force and effect, and shall in no way be affected, prejudiced, or disturbed thereby.

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

V GROUP CONSULTANCY SERVICES INC.
AKA V GROUP INC



By: **Monika Rohila, President**

Date: **04/30/2018**

PARENT COMPANY (GUARANTOR) (if applicable)

By:

Date

MARYLAND HEALTH BENEFIT
EXCHANGE

By: Michele Eberle, Executive Director
Or designee:

By:

Date

Approved for form and legal sufficiency
this ____ day of _____, 20__.

Assistant Attorney General

IN WITNESS THEREOF, the parties have executed this Contract as of the date hereinabove set forth.

V GROUP CONSULTANCY SERVICES INC.
AKA V GROUP INC



By: **Monika Rohila, President**

Date: **04/30/2018**

PARENT COMPANY (GUARANTOR) (if applicable)

By:

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MARYLAND HEALTH BENEFIT
EXCHANGE



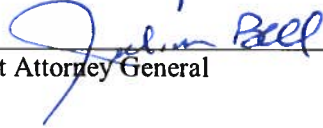
By: Michele Eberle, Executive Director
Or designee:

By:

5-3-18

Date

Approved for form and legal sufficiency
this 30 day of May, 2018.


Assistant Attorney General