

**AMENDMENT**

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and MVP Health Care Inc. (hereafter called the "Contractor") that the contract on the subject of personal services generally on the subject of offering qualified health and dental plans on the State of Vermont's federally-mandated health exchange, effective August 30, 2013, is hereby amended effective January 1, 2016, as follows:

**1. By deleting Section 4 (Contract Term) on page 1 of 41 of the base contract and substituting in lieu thereof the following Section 4:**

**4. Contract Term.** The period of Contractor's performance shall begin on August 30, 2013 and end on December 31, 2016.

**2. By deleting Section 8 (Attachments) on page 1 of 41 of the base contract and substituting in lieu thereof the following Section 8:**

**8. Attachments.** This contract consists of 41 pages including the following attachments, which are incorporated herein:

- Attachment A: Specifications Of Work To Be Performed
- Attachment B – Payment Provisions
- Attachment C: Customary Provisions for Contract and Grants
- Attachment D: Modification of Customary Provisions of Attachment C or Attachment F
- Attachment F: Agency of Human Services' Customary Contract Provisions
- Attachment H: Business Partnership Agreement
- Attachment I: Trading Partner Agreement

The order of precedence of documents shall be as follows:

- 1). This document
- 2). Attachment D
- 3). Attachment C
- 4). Attachment A
- 5). Attachment F
- 6). Attachment H
- 7). Attachment I

**3. By replacing the following definitions beginning on page 5 of 41 of the base contract and substituting in lieu thereof the following definitions:**

Qualified Health Plan or QHP means the health benefit plan or plans set forth in the letter of certification.

Trading Partner Agreement – Electronic Health Care Transactions (TPA) shall mean the Trading Partner Agreement attached to this agreement.

**4. By deleting Section 2.08 (Renewal/Non-renewal) of Attachment A on page 8 of 41 of the base contract.**

5. **By deleting Section 4.01 (Qualified Health Plans) of Attachment A on page 8 of 41 of the base contract and substituting in lieu thereof the following Section 4.01:**

**4.01 Qualified Health Plans**

Contractor shall offer the Contractor's QHPs identified in the letter of certification for the Plan Year in accordance with this Agreement.

6. **By deleting Section 4.04 (Benefit Design) of Attachment A on page 8 of 41 of the base contract and substituting in lieu thereof the following Section 4.04:**

**4.04 Benefit Design**

The State reserves the right to determine the benefit designs which best serve the citizens of the State of Vermont. Contractor shall offer on VHC only those products set forth in its filing at the Premium rates set forth in its filing.

7. **By deleting Section 4.09 (State Premium and Cost Sharing Assistance) of Attachment A on page 10 of 41 of the base contract and substituting in lieu thereof the following Section 4.09:**

**4.09 State Premium and Cost Sharing Assistance**

Contractor must participate in any and all applicable State and federal premium subsidy and cost-sharing reduction programs, in accordance with Attachment I.

In order to receive cost sharing assistance, Contractor must provide the allocation of the rate and expected claims costs for: (1) the plan for Essential Health Benefits coverage, excluding abortion services, and (2) any other services or benefits. The State will multiply the monthly expected allowed claims costs for the Silver Plan set forth in its certification letter, by the difference in increased Actuarial Value percentage for State Cost Sharing Assistance to estimate the difference in cost sharing between the standard plan or federal plan variation and Vermont's plan variation. The resulting number provides a standardized per Enrollee per month of the value of the cost-sharing assistance. The State will multiply this number by the number of eligible Enrollees in the plan variation to arrive at the total advanced payment that will be provided to Contractor for each plan variation of each QHP each month.

8. **By deleting Section 8.02 (Termination) of Attachment A on page 15 of 41 of the base contract and substituting in lieu thereof the following Section 8.02:**

**8.02 Termination**

The State may, upon not less than sixty (60) calendar days' written notice to Contractor, and without prejudice to any other remedies, terminate this Contract based on one or more of the following occurrences:

- (a) Contractor breaches any material term or obligation under this Contract that is not cured or substantially cured to the satisfaction of the State within the reasonable timeframe for cure indicated on the notice of breach from the State; provided, however, that such cure period may not be required and the State may terminate the Contract immediately if the State determines that Contractor's breach threatens the health and safety of Enrollees;
- (b) Contractor intentionally fails to comply with a change in laws, rules or regulations occurring during the term of this Contract and/or does not take any and all actions that may be required to

amend the Contract and otherwise establish and document compliance with any such changes, and the State reasonably determines based on consultation with legal counsel and/or other regulators and/or other state-based or federal health benefit exchanges that the State may be at risk of being found non-compliant with federal laws, rules or regulations as a result of such intentional failure.

The termination shall become effective after the expiration of such notice period if the defaults specified by the State in its notice remain uncured at that time; provided, however, that the State may require Contractor to discontinue the provision of certain Services under this Contract if the State determines that the continuing provision of such Services may cause immediate harm to Enrollees.

Contractor shall not terminate this Contract during the Plan Year, absent a material breach by the State pertaining to the terms and conditions of this Contract, including a material failure to transmit appropriate Premiums to Contractor that is not cured or substantially cured to the satisfaction of the Contractor upon not less than 60 days prior written notice to the State. Contractor may terminate this Contract without cause with 90 days notice prior to the start of a new Plan Year.

**9. By deleting Section 8.06 (Effect of Termination) of Attachment A on page 16 of 41 of the base contract and substituting in lieu thereof the following Section 8.06:**

**8.06 Effect of Termination**

This Contract shall terminate or expire as set forth herein, unless otherwise agreed by the parties.

Upon expiration or termination, Contractor's QHPs shall be deemed decertified and shall cease to operate as a Certified QHPs upon termination or expiration of this Contract. Contractor may appeal the termination this Contract in the Superior Court of the State of Vermont, Civil Division, Washington Unit.

(a) All duties and obligations of the State and Contractor shall cease upon termination of this Contract and the decertification of Contractor's Certified QHPs that shall occur upon the termination of this Contract, except as set forth below or otherwise provided in this Contract.

(b) The State and Contractor shall cooperate fully to effect an orderly transfer of coverage to another Issuer as determined by the State following involuntary termination. In the event of Contractor's insolvency or threatened insolvency, Contractor shall cooperate with the State prior to contract termination to ensure the most orderly transition possible. Such cooperation shall include, without limitation, the following:

1. Contractor shall timely and accurately process all claims owing for that period of time when coverage was in effect, prior to termination, consistent with the terms of the QHPs and Contractor's contracts with participating Providers, in accordance with applicable law.

2. Contractor shall work with the State to develop communications to Enrollees and Employers regarding the effect of the termination.

(c) To the extent feasible, Contractor shall continue to provide customer service to support the processing of claims received prior to the end date of coverage.

(d) As instructed by the State in the termination notice, Contractor shall promptly discontinue the provision of any specific services identified in the termination notice as of the date reasonably requested by the State.

(e) Contractor will perform reasonable and necessary acts requested by the State and as required under applicable Laws and consistent with industry standards to facilitate transfer of coverage to a succeeding Contractor. In the event of termination, the State and Contractor shall cooperate with each other and any successor QHP in good faith with respect to taking such actions are reasonably determined to be the best interest of Enrollees and Employers.

(f) The State and Contractor shall participate in an accounting, conducted by the State or other entity as may legally be required, of amounts paid or payable and Enrollees enrolled during the month in which termination is effective in order to assure an appropriate determination of premiums earned by and payable to Contractor for Services rendered prior to the date of termination.

(g) Responsibility to Complete Contractual Obligations: After termination, Contractor shall be responsible for submitting any outstanding financial or other reports required during the term of the Contract.

(h) The State and Contractor shall (i) provide such other information to the other party, Enrollees and/or a succeeding Contractor, and/or (ii) take any such further action as is required to effect an orderly transition of Enrollees to another QHP in accordance with requirements set forth under this Contract and/or reasonably necessary to the continuity and transition of care in accordance with applicable Laws.

**10. By deleting Section 1.01 (Effect of Termination) of Attachment B on page 22 of 41 of the base contract and substituting in lieu thereof the following Section 1.01:**

**1.01 Premium Processing**

Except as otherwise set forth herein, the State shall have no payment obligations to the Contractor, and the Contractor shall have no recourse to the State, for Premium payments.

The State shall be responsible for the aggregation and administration of Premiums for Qualified Employers and Qualified Individuals purchasing insurance through VHC. The State shall be responsible for: (1) the submission of bills to each Employer on a monthly basis in a form that identifies Employer and Employee contributions and the total amount due; (2) collecting the amounts due from each Employer; (3) determining that portion of collected premiums which is payable to Contractor; and (4) making payments to Contractor for Enrollees in Contractor's Certified QHPs within timeframes identified in the Payment ICD and Companion Guide attached to the Trading Partner Agreement between the parties; and (5) promptly processing non-payment termination transactions transmitted to the State by Contractor.

In no event shall the State be liable to Contractor with respect to any interest or other charges relating to Premium payments received by the State that are not yet disbursed by the State to the Contractor; provided, however, the State shall be liable to the extent of its own negligent acts or omissions or intentional misconduct which results in the failure to distribute Premium payments to Contractor which are owing for coverage provided pursuant to the QHPs attached hereto in its certification letter. In no event shall Contractor be liable for the negligent acts or omissions or intentional misconduct of the State, including billing errors attributable to the State and, to the extent Contractor has provided coverage for Premiums received, Contractor shall not be required to rescind such coverage.

**11. By deleting Section 1.02 (Schedule of Rates) of Attachment B on page 22 of 41 of the base contract and substituting in lieu thereof the following Section 1.02:**

**1.02 Schedule of Rates**

Contractor shall only offer the QHPs identified in its certification letter at the Premium rates identified in its filing.

**STATE OF VERMONT  
AMENDMENT TO PERSONAL SERVICES CONTRACT  
MVP HEALTH CARE, INC.**

**PAGE 5 OF 9  
CONTRACT #25195  
AMENDMENT #3**

**12. By deleting Attachment C (Customary State Provisions for Contracts and Grants) on page 25 of 41 of the base contract and substituting in lieu thereof the following Attachment C (Standard State Provisions for Contracts and Grants) beginning on page 6 of this amendment.**

This amendment consists of 9 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#25195) dated August 30, 2013 shall remain unchanged and in full force and effect.

**BY THE STATE OF VERMONT:**

**BY THE CONTRACTOR:**

E-SIGNED by Steven Costantino  
on 2016-02-23 14:46:19 GMT February 23, 2016

E-SIGNED by Karla Austen  
on 2016-02-23 13:36:22 GMT February 23, 2016

STEVEN COSTANTINO, COMMISSIONER  
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Email: [Steven.Costantino@Vermont.gov](mailto:Steven.Costantino@Vermont.gov)

DATE

KARLA AUSTEN, INTERIM CFO  
MVP Health Care Inc.

DATE

Email: [Kausten@mvphealthcare.com](mailto:Kausten@mvphealthcare.com)

**ATTACHMENT C: STANDARD STATE PROVISIONS  
FOR CONTRACTS AND GRANTS**

1. **Entire Agreement:** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to

cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

Premises - Operations  
Products and Completed Operations  
Personal Injury Liability  
Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

\$1,000,000 Per Occurrence  
\$1,000,000 General Aggregate  
\$1,000,000 Products/Completed Operations Aggregate  
\$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of \$5,000,000 per occurrence, and \$15,000,000 aggregate.

8. **Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
9. **Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

**10. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.

**11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.

**12. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.

**13. Taxes Due to the State:**

- a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
- b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
- c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
- d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.

**14. Child Support:** (Applicable if the Party is a natural person, not a corporation or partnership.)  
Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.



- 15. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.
- 16. No Gifts or Gratuities:** Party shall not give title or possession of any thing of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.
- 17. Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.
- 18. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.
- Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>
- 19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.
- 20. Internal Controls:** In the case that this Agreement is an award that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
- 21. Mandatory Disclosures:** In the case that this Agreement is an award funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.
- 22. Conflict of Interest:** Party must disclose in writing any potential conflict of interest in accordance with Uniform Guidance §200.112, Bulletin 5 Section X and Bulletin 3.5 Section IV.B.

(End of Standard Provisions, State of Vermont – Attachment C - 9-1-2015\_rev)