

## **EXECUTION VERSION**

### **TRANSITION AGREEMENT**

This Transition Agreement (“Transition Agreement”) is made as of this 1<sup>st</sup> day of August, 2014 (the “Effective Date”), by and between CGI Technologies and Solutions Inc. (“CGI”) and the State of Vermont Department of Vermont Health Access (“DVHA”) (CGI and DVHA shall be referred to individually as a “Party” and collectively as the “Parties”).

**WHEREAS**, CGI and DVHA are parties to a Master Services Agreement dated December 13, 2012, as amended by First Amendment to the Amended and Restated SOW No. 1, First Amendment to SOW No. 2, First Amendment to SOW No. 3 and First Amendment to SOW No. 4 (“Amendment No. 4”) (together, with all amendments, exhibits, Statements of Work and Change Orders thereto, the “MSA”).

**WHEREAS**, a number of contract disputes have arisen between the Parties regarding their rights and obligations under the MSA;

**WHEREAS**, the Parties now wish to resolve their differences concerning their contract disputes without any admission of fault on the part of any Party; and

**WHEREAS**, the Parties now wish to transition certain Services under the MSA and SOW No. 1, SOW No. 2, SOW No. 3 and SOW 4 with the exception of Hosting Services (collectively, the “Transitioned Services”) from CGI to a Successor, and to negotiate another amendment to the MSA with respect to other services.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **Definitions**: Unless otherwise defined herein, capitalized terms used in this Transition Agreement shall have the meanings given to such terms in the MSA.
2. **Change Orders for Transition Services**: On the Effective Date, the Parties agree to execute a Change Order in the form attached to this Transition Agreement as Exhibit 1 for the

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transition of CGI's remaining work relating to the Transitioned Services to DVHA and a Successor (the "Transition Services Change Order"). Upon the Effective Date, the Parties' obligations in SOW No. 1, SOW No. 2, SOW No. 3 and SOW No. 4 with the exception of Hosting Services, shall hereby be replaced with the Transition Services Change Order.

3. Payment to CGI for Work Completed and Assessment by DVHA of Liquidated Damages, Discounts and Credits: In full and complete satisfaction of any and all amounts claimed by CGI in connection with the MSA as of the Effective Date, except as noted below and in full and complete satisfaction of any and all claimed and unclaimed Liquidated Damages, Discounts, offsets, credits or other amounts claimed by DVHA in connection with the MSA as of the Effective Date, DVHA agrees to pay CGI the sum of nine million, seven hundred thousand dollars (\$9,700,000.00) (the "CGI Transition Agreement Payment"), by wire transfer, as follows:

- a. Within five (5) business days of the Effective Date, 35% of the CGI Transition Agreement Payment;
- b. On August 29, 2014, 35% of the CGI Transition Agreement Payment; and
- c. On September 20, 2014, 30% of the CGI Transition Agreement Payment.

In the event that the Transition Completion, as defined in Section 7(a) of the Transition Services Change Order, occurs prior to September 20, 2014, all outstanding payments listed in paragraphs a, b, and c above will become due and payable immediately. Or, if DVHA, any other agency of the state of Vermont and/or Successor retains, hires, or contracts directly with twenty-five or more of the CGI employees, subcontractors, and/or independent contractors, DVHA agrees that all outstanding payments listed in paragraphs a, b, and c above will become due and payable upon the anticipated effective date of the retention, hire, or contract for the resource that represents the twenty-fifth resource being transferred.

DVHA hereby waives its right from whatever source derived, including without

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limitation, as set forth in Section 20.5 of the MSA, to set-off from the payments due under this Section 3 any monies DVHA may believe CGI owes to it.

Notwithstanding anything in this Section to the contrary, the CGI Transition Agreement Payment does not include amounts due and payable to CGI under: the Transition Services Change Order; Change Order No. 201 (3.3.2.9 migration); Invoice No. US315020226 in the amount of \$190,387.03; Invoice No. US315020225 in the amount of \$229,925.32; Invoice No. US315020224 in the amount of \$524,937.25; and invoice No. US3150223 in the amount of \$539,249.10. Further, SOW No. 4 will continue to be invoiced per Schedule L plus any approved Change Requests through September 30, 2014. Further still, the CGI Transition Agreement Payment resolves all open disputes and payments associated with Key Deliverables 3, 4, and 5 from Table 1 of Attachment 2 of Amendment No. 4.

4. Confirmation of Assignment of Work Product to DVHA by CGI: CGI hereby confirms and acknowledges that all of CGI's rights, if any, in and to Work Product generated under the MSA, including but not limited to Change Order No. 201 and the Transition Services Change Order, are the sole and exclusive property of DVHA, and to the extent such Work Product has not already been irrevocably and unconditionally assigned to DVHA, CGI agrees to do so within five (5) business days of the Effective Date. DVHA shall provide CGI with licenses to use Work Product as may be required for performance of any continuing Services under the MSA, including but not limited to Change Order No. 201 and the Transition Services Change Order. CGI also hereby confirms and agrees that it will provide DVHA or its designee, including Successor, with complete access to any and all environments related to or created under the MSA or hosted by CGI pursuant to the MSA.

5. Transfer of Resources to DVHA:

a. As set forth in Section 6 below, CGI agrees to assign certain licenses or

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other rights to use Equipment or Software to DVHA. In the event that CGI believes that any such requested assignment will impair CGI's ability to perform its remaining obligations under the Transition Services Change Order, CGI will notify DVHA of its belief prior to such assignment, and DVHA will thereafter take reasonable steps to ensure that CGI is not prohibited from continuing to perform its remaining obligations under the Transition Services Change Order following such assignment.

b. As set forth in Sections 7 and 8 below, CGI agrees to assign, transfer or make available for hire ("Transfer") certain subcontracts and/or employees ("Resources") to DVHA. DVHA will notify CGI prior to retaining the direct services of the Resources, and CGI will notify DVHA of the resulting impact to CGI's remaining obligations under the Transition Services Change Order, including whether CGI believes that any Transfer of such Resources will impair CGI's ability to perform its remaining obligations under the Transition Services Change Order. If the Transfer of any such Resources in accordance with Sections 7 or 8 below occurs on a date that is earlier than the completion of the Transition Services Change Order, such Transfer will relieve CGI of its obligation to perform those remaining obligations under the Transition Services Change Order that are impaired by such Transfer.

6. Assignment of Licenses to DVHA by CGI: CGI agrees to assign, and/or use all commercially reasonable efforts to satisfy the consent, notice or other prerequisites to assign, if any, to DVHA or its designee all third party licenses, sublicenses or other right to use any Equipment or Software specified in Exhibit 2 hereto upon the earlier of: (i) the completion of the Transition Services Change Order; or (ii) such date as DVHA or Successor may specify upon five (5) business days' prior written notice.

7. Assignment of Service Contracts/Subcontracts to DVHA by CGI: CGI agrees to assign to DVHA or its designee all service contracts and subcontracts specified in Exhibit 3

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hereto upon the earlier of (i) the completion of the Transition Services Change Order or (ii) such date as DVHA or Successor may specify upon five (5) business days' prior written notice.

Further, CGI agrees to provide DVHA will full, unredacted copies of all service contracts and subcontracts that are assignable within five (5) days of the Effective Date.

Per Exhibit 3, certain Service Contracts/Subcontracts are not assignable; CGI will work in good faith to assist DVHA in arranging for a direct relationship between DVHA and the respective Subcontractor.

8. Release of Restrictions on CGI Employees and Independent Contractors: CGI will notify DVHA once the CGI employees (also referred to herein as "members") listed in Exhibit 4 to this Transition Agreement have been notified that DVHA or the Successor may seek to hire or retain them, but said notification of CGI employees will not occur more than five (5) business days following the Effective Date. Following CGI's notification to DVHA, described above, DVHA or the Successor shall be permitted to solicit and undertake to hire or retain the CGI employees listed in Exhibit 4 to this Transition Agreement. CGI agrees to provide those employees listed in Exhibit 4 who receive a written offer of employment from DVHA and/or the Successor with a written limited release from their contractual post-employment restrictions that would allow them to be hired by DVHA and/or the Successor to perform work for DVHA for the scope of work being transitioned to DVHA and/or the Successor.

In connection with CGI's current and former independent contractors, within five (5) days of the Effective Date, CGI shall communicate to the vendors through which those independent contractors were provided to CGI that CGI will, with respect to the independent contractor resources used on the DVHA project, release such vendors from any contractual post-contracting restrictions with CGI that would otherwise prevent such vendors from contracting with DVHA or the Successor for the use of such independent contractors to perform work for the

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DVHA project.

9. Amendment of the MSA: Beginning on the Effective Date, the Parties agree to use diligent efforts and engage in good faith negotiations for the purpose of reaching agreement on the terms of another amendment to the MSA ("Amendment No. 5") which will, among other things, provide for the continuation and eventual transition of certain Hosting Services. The Parties acknowledge and agree that time is of the essence in the negotiation and execution of Amendment No. 5. In the event that Amendment No. 5 is not executed by the Parties by September 30, 2014, the monthly Hosting fees will increase by \$75,000 per month, beginning for October 2014.

10. Indemnity Obligations of CGI: To the extent not encompassed by DVHA's rights to indemnification under the MSA and Vermont law, CGI agrees to defend, indemnify and hold DVHA and its officers and employees harmless from and against all subcontractor claims arising under or relating to the MSA through the effective date of the assignment of the respective subcontract agreement for payment for services provided under or relating to the MSA. Except to the extent otherwise provided in the MSA, CGI shall have no obligation under this Section to indemnify the DVHA for any claim brought by a subcontractor where (a) such claim is brought under a contract to which DVHA and such subcontractor are direct parties or (b) such claim is brought under a contract between subcontractor and a third party prime vendor other than CGI under which a subcontractor is also a subcontractor.

11. Survival of the MSA: The MSA shall remain in full force and effect following the execution of this Transition Agreement. Notwithstanding the survival of the MSA, and except to the extent necessary for the completion of Change Order No. 201, the Transition Services Change Order, or the completion of any other Services or work required by this Transition Agreement, the Parties' obligations under the Transitioned Services shall be suspended in their

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entirety until the execution of Amendment No. 5. The Parties' obligations with respect to Hosting services under SOW No. 4 shall remain in full force and effect until the execution of Amendment No. 5 or the expiration of SOW No. 4, whichever occurs first.

12. Mutual Release of Claims: For good and valuable consideration, and as a condition for entering into this Transition Agreement, as of the Effective Date DVHA and CGI hereby mutually, unconditionally, fully and finally release and forever discharge any and all claims that they may have against each other, whether or not known at the time of this release, whether, contractual, at law or in equity, or under any state or federal statute or regulation, which relate to or arise out of the MSA or the Exchange, including without limitation any alleged breach of the MSA. This release shall bind and inure to the benefit of DVHA's respective successors, assigns, employees and agents and CGI's respective successors, assigns, parents, subsidiaries, affiliates, employees and agents.

13. Claims Excluded from the Mutual Release of Claims: The Parties' mutual release set out in the first sentence of Section 12 of this Transition Agreement shall not apply to the following:

- a. Claims between DVHA and CGI related to a breach of this Transition Agreement, Change Order No. 201 or the Transition Services Change Order; and
- b. Claims by DVHA against CGI arising out of any obligation that CGI may have under the MSA or Section 10 of this Transition Agreement to defend, indemnify or hold DVHA harmless from any third party claims. These obligations include but are not limited to obligations imposed by Sections 15.4, 21.3(g), 22.5, 24.4 and 24.5 of the MSA.

14. Post-Transition Agreement Assurances: At any time up through the nine month anniversary of the Effective Date of this Transition Agreement, if DVHA reasonably determines further documentation is required related to any agreements, certifications, instruments or

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documents contemplated in this Transition Agreement, and makes said request to CGI to provide said missing documentation, CGI shall use reasonable efforts to locate and deliver the requested documentation without further consideration. If CGI is unable to locate requested documentation, CGI will promptly notify DVHA.

15. Authorization and Consideration: Any individual executing this Transition Agreement on behalf of any Party represents and warrants that such individual is duly authorized to enter into this Transition Agreement on behalf of that Party and that this Transition Agreement binds that Party. Each of the Parties agrees that, in return for the agreements herein, it is receiving good and valuable consideration, the receipt and sufficiency whereof is hereby acknowledged.

16. Advice of Counsel: The Parties acknowledge that each has participated in the drafting of this Transition Agreement and has had the Transition Agreement reviewed by the attorneys or other advisors of its choice. Accordingly, in interpreting the terms of this Transition Agreement, no adverse inferences shall be drawn against any Party from the fact that such Party has participated to a greater or lesser extent in the drafting of this Transition Agreement.

17. Governing Law and Venue: All questions concerning the validity, interpretation, enforcement and performance of this Transition Agreement shall be governed by and decided in accordance with the substantive internal laws of the state of Vermont without regard to its choice of law principles. The Parties further submit and irrevocably consent to venue in and the exclusive jurisdiction of the Superior Court of the state of Vermont, Civil Division, Washington Unit, and irrevocably agree that all actions or proceedings relating to this Transition Agreement shall be litigated in state courts, and each of the Parties waives any objection which it may have based on improper venue or forum non conveniens to the conduct of any such action or proceeding in such court. Except as required by the indemnification provisions of the MSA,



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neither party shall be liable for attorney's fees incurred by the other party in any proceeding.

18. Entire Agreement: This Transition Agreement represents the entire agreement of CGI and DVHA with respect to the subject matter hereof and supersedes any and all prior agreements or understandings, whether oral or written, relating to resolution of all of the Parties' contract disputes prior to the Effective Date.

19. Conflicts: If any conflict exists between the terms of this Transition Agreement, including the attached Transition Services Change Order, on the one hand and the MSA, as amended, on the other hand, the Transition Agreement and Transition Services Change Order will control over the MSA, as amended.

20. No Oral Modifications or Waivers: No waiver, modification or amendment of any provision of this Transition Agreement shall be effective unless executed in writing by the Parties to be bound by such waiver, modification or amendment. The failure by either Party hereto on any occasion to exercise any right provided herein shall not be deemed a waiver of any right provided herein nor shall it be deemed to be a waiver of the right to exercise the rights provided herein on a future occasion.

21. Binding Effect: This Transition Agreement shall inure to the benefit of, and be binding upon, the Parties to this Transition Agreement and their successors and assigns.

22. Execution in Counterparts: This Transition Agreement may be executed by the Parties in counterparts, each of which shall be deemed an original regardless of the date of its execution and delivery, and the counterparts together shall constitute one and the same Transition Agreement. The Parties further agree that a facsimile or PDF copy of a Party's signature shall be accepted as the Party's signature.

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IN WITNESS WHEREOF, each of the signatories has read and understood this Agreement, has executed it, and represents that he/she is authorized to execute it on behalf of the Party he/she represents, who or which have agreed to be bound by its terms upon the Effective Date and have entered into this Transition Agreement.

CGI Technologies and Solutions Inc.

The Department of Vermont Health Access

Signature: E-SIGNED by Gregg Mossburg  
on 2014-08-02 13:52:52 GMT

Signature: E-SIGNED by Mark Larson  
on 2014-08-02 14:40:29 GMT

By: Gregg Mossburg

By: Mark Larson

Its: Senior Vice President

Its: Commissioner

Date: August 02, 2014

Date: August 02, 2014

**Reviewed and Approved:**

Signature: E-SIGNED by Lawrence Miller  
on 2014-08-02 14:57:24 GMT

By: Lawrence Miller

Title: Senior Advisor to the Governor and Chief of Healthcare Reform

Date: August 02, 2014