

MINUTEMAN HEALTH, INC.

BROKER AGREEMENT

THIS BROKER AGREEMENT (the "Agreement") is made and entered into as of this ____ day of _____, 2017, by and between Minuteman Health, Inc., a Massachusetts non-for-profit corporation (the "Minuteman"), and _____, with a principal place of business at _____ (the "Broker"). Minuteman desires to retain the Broker as an independent contractor to perform certain services for Minuteman and the Broker desires to perform such services, on the terms set forth more fully in this Agreement. In consideration of the mutual promises contained herein, the parties agree as follows:

1. SERVICES AND COMPENSATION

(a) Services. Minuteman hereby engages Broker to provide, and Broker agrees to perform for Minuteman the services described in Exhibit A, attached hereto and made a part hereof ("Services"). It is understood that if Exhibit A calls for the personal services of specified individuals, that Broker may not substitute other individuals without the written consent of Minuteman. Minuteman shall pay Broker the fees set forth in Exhibit A.

(b) Compliance with Laws and Other Requirements. Broker understands and acknowledges that it has been retained by Minuteman to perform Services that relate to Minuteman's status as a so-called consumer operated and oriented plan ("CO-OP") as that term is defined in, and subject to the requirements established by, or under the authority of, Section 1322 of the Patient Protection And Affordable Care Act of 2010 (the "Affordable Care Act"). Broker agrees to use reasonable efforts to assure that it does not engage in any practice that is contrary to the purpose or goals of the CO-OP program.

Broker represents and warrants to Minuteman that neither Broker nor any of its officers, directors and employees (i) are currently excluded, debarred, or otherwise ineligible to participate in any federal or state health care programs (the "Programs"); (ii) have been convicted of a criminal offense related to the provision of health care items or services, (iii) are, to the best of its knowledge, under investigation or otherwise aware of any circumstances which may result in Broker being excluded from participation in any of the Programs, and (iv) appear on the List of Excluded Individuals and Entities maintained by the U.S. Department of Health & Human Services or the System for Award Management database. This shall be an ongoing representation and warranty during the term of this Agreement and Broker shall immediately notify Minuteman of any change in the status of the representations and warranty set forth in this section.

By signing this Agreement Broker is stating: (i) neither Broker nor any entity in which Broker had an ownership interest of greater than 5% has ever been convicted of a criminal offense relates to health care; (ii) neither Broker nor any entity in which Broker had an ownership interest of greater than 5% has ever been listed by the government as debarred, excluded or otherwise

ineligible for federal or state health benefit program participation; and (iii) neither Broker nor any entity in which Broker had an ownership interest of greater than 5% have received notice of proceedings that may lead to (i) or (ii) herein. Any breach of this section shall give Minuteman the right to terminate this Agreement immediately for cause.

(c) Cooperation with Minuteman. Broker shall cooperate with Minuteman to assist Minuteman in its compliance with the requirements of all applicable laws, regulations, requests and orders of any governmental or regulatory authority with jurisdiction over the business of Minuteman including, but not limited to, Section 501(c)(29) of the Code, the Affordable Care Act, Subpart F, the FEOA, and the Loan Agreement.

(d) Retention of Consumer Control. Minuteman shall at all times maintain and continue to exercise responsibility and authority for the conduct of its affairs and business. The Board of Directors shall retain all powers, duties, and responsibilities vested in such Board of Directors by law. Broker acknowledges that Minuteman is a CO-OP, and shall, to the maximum extent practicable, seek to recommend and perform Services so as to maintain and enhance consumer control of Minuteman.

2. INFORMATION AND MATERIALS

(a) Definitions.
(i) "Proprietary Information" means any proprietary information, technical data, trade secrets or know-how, including, but not limited to, research, product plans, products, services, customers, customer lists, markets, software developments, inventions, processes, formulas, technology, designs, drawings, engineering, hardware configuration information, marketing, information regarding plans for research, development, new products and services, marketing and selling, business plans, budgets and unpublished financial statements, licenses, prices and costs, suppliers, finances and business information of Minuteman's or other third parties with a relationship with Minuteman disclosed to Broker or to which Broker gains access pursuant to its performance of Services, whether in writing, orally or by drawings or inspection of documents.

(ii) "Work Product" means trade secrets, confidential knowledge, data or any other information, documents, or

materials resulting from the Services performed by the Broker or produced by the Broker in connection with the Services, including, but not limited to, inventions, trade secrets, ideas, processes, formulas, data, programs, other works of authorship, know-how, improvements, discoveries, developments, designs and techniques. Work Product does not include any information developed by the Broker prior to the Broker performing work or activities in connection with this Agreement or independently developed by the Broker outside the scope of this Agreement.

(iii) “PHI” or “Protected Health Information” means personally identifiable medical record and other information about individuals, and is further defined by the federal Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder (“HIPAA”).

(iv) “Confidential Information” means Proprietary Information, Work Product, and PHI which Broker has or to which it has access. Confidential Information does not include information which (A) is known to the Broker at the time of disclosure to the Broker by Minuteman as evidenced by written records of the Broker, (B) has become publicly known and made generally available through no wrongful act of the Broker, or (C) has been rightfully received by the Broker from a third party without restrictions who is authorized to make such disclosure.

(b) Ownership. It is understood and agreed that Minuteman owns all Confidential Information. Broker hereby assigns to Minuteman any and all right, title, and interest in or relating to Work Product so that Minuteman shall be the sole owner of all patent rights, copyrights, trade secret rights, masterwork rights and all other rights, including all intellectual property rights, throughout the world, with respect to Work Product. Broker agrees to assist Minuteman, or its designee, at Minuteman’s expense, in every proper way to secure the Minuteman’s rights in the Work Product in any and all countries, including the disclosure to the Minuteman of all pertinent information and data with respect thereto, the execution of all applications, specifications, oaths, assignments and all other instruments which Minuteman may deem necessary in order to apply for and obtain such rights and in order to assign and convey to Minuteman, its successors, assigns and nominees the sole and exclusive right, title and interest in and to such Work Product. The Broker further agrees that the Broker’s obligation to so assist Minuteman, when it is in the Broker’s power to do so, shall continue after the termination of this Agreement.

(c) Non-Disclosure. Broker shall not disclose Confidential Information to any person or other entity without the prior written consent of Minuteman, except (i) to the limited extent that such disclosure is necessary in order for it to perform Services, (ii) to Subcontractors for their performance of Services, (iii) as necessary to Broker’s business advisors such as its attorneys and accountants, who are under a confidentiality obligation, or (iv) as required by law. The obligations in this Section 2 shall survive the termination of this Agreement for a period of five (5) years from the termination date.

(d) Non-Use. Broker shall not use Confidential Information for any purpose whatsoever except to the limited extent necessary in order to perform Services.

(e) HIPAA Broker agrees to comply with the obligations included as Exhibit B, attached hereto and incorporated by reference

(f) Retention and Inspection. Broker shall maintain a copy of any document that pertain to Minuteman’s compliance with CO-OP program requirements or the ability of Minuteman to repay Loan funds for ten (10) years or until notified by Minuteman that such documents may be destroyed, whichever is earliest. Broker shall allow, and shall require its subcontracted vendors to allow, inspection, audit, evaluation and copying of such records, upon reasonable advance notice and during regular business hours, by HHS, the Comptroller General, the HHS Office of Inspector General, or their representatives or designees, the Division of Insurance, and its representatives or designees, and CO-OP and its representatives or designees for the purpose of evaluating the nature and cost of the services provided.

(g) Return or Destruction of Materials. Upon the termination of this Agreement, the Broker shall deliver to the Minuteman all Confidential Information, including all copies thereof, that the Broker may have in its possession or control, or shall destroy such property, at the election of the Minuteman.

(h) Survival. The provisions of this Section 2 shall survive termination of this Agreement.

3. CONFLICTING OBLIGATIONS

The Broker will not take any action prejudicial to Minuteman or its interest. Broker represents that neither it nor its employees has any outstanding agreement or obligation that is in conflict with any of the provisions of this Agreement or that would preclude it or them from complying with the provisions hereof, and further represents that it will not enter into any such conflicting agreement during the term of this Agreement.

4. TERM AND TERMINATION

(a) Term. This Agreement shall commence on the date first written above for a term of one (1) year and shall renew automatically for successive one (1) year terms unless either party terminates as provided herein.

(b) Termination. Minuteman may terminate this Agreement prior to the completion of Services for any reason or no reason upon giving thirty (30) days’ prior written notice to the Broker. Broker may terminate this Agreement (i) if Minuteman breaches its obligations hereunder upon giving the Minuteman thirty (30) days’ prior written notice, provided that this Agreement shall not be so terminated if Minuteman cures such breach within the thirty (30) days’

notice period, or (ii) by giving Minuteman not less than thirty (30) days' notice if Broker is no longer able to perform the Services due to unforeseen circumstances, including but not limited to the disability of its employees or its inability to engage qualified employees or Subcontractors.

(c) Ongoing Oversight by Regulatory Entities. The parties acknowledge that this Agreement has been approved and executed by both parties with the understanding that the Loan Agreement under which Minuteman obtained a loan from CMS pursuant to Section 1322 of the Affordable Care Act as well as other State and Federal obligations subjects Minuteman to ongoing oversight, monitoring and review by CMS and other State and Federal agencies. As such, Minuteman may receive instructions from CMS or other State or Federal agencies that require changes in this Agreement. If Minuteman does receive such instruction, Minuteman may initiate negotiations to amend provisions of this Agreement, including, without limitation, amendments to financial, service and term provisions. In the event that the parties are unable to agree to any such amendment, then either party may terminate this Agreement upon not less than thirty (30) days prior written notice.

5. INDEPENDENT CONTRACTOR

It is the express intention of the parties that the Broker is an independent contractor. Nothing in this Agreement shall in any way be construed to constitute the Broker as an employee of Minuteman. The Broker agrees to furnish (or reimburse Minuteman for) all tools and materials necessary to accomplish this contract, and shall assume all expenses associated with performance hereunder, except as expressly provided on Exhibit A. The Broker acknowledges and agrees that the Broker is obligated to report as income all compensation received by the Broker pursuant to this Agreement, and the Broker agrees to and acknowledges the obligation to pay all self-employment and other taxes thereon, including FICA (Social Security), state or federal unemployment insurance contributions, state or federal income tax (which shall not be withheld by Minuteman), disability insurance contributions, and workers' compensation insurance contributions. Furthermore, Broker acknowledges and agrees and it is the intent of the parties that the Broker receive no Minuteman-sponsored benefits from Minuteman either as a Broker or an employee, including, but not limited to, paid vacation, sick leave, severance, health insurance, and savings and retirement plans. Broker will indemnify and hold Minuteman harmless from any and all loss or liability arising from its failure to make such payments, withholdings, and benefits, if any. If the Broker is reclassified as an employee as a result of a determination by a state or federal agency or court, the Broker will not receive any benefits except those mandated by state or federal law, even if by the terms of Minuteman's benefit plans Broker would otherwise be entitled to such benefits.

6. INDEMNIFICATION

Broker shall indemnify and hold Minuteman harmless from all claims, actions, liability, or expenses (including costs or

settlements, judgments, court costs, and attorneys' fees, regardless of the outcome of such claim or action) caused by or resulting from alleged negligent or intentional actions or omissions of Broker, its employees, agents or affiliates or any failure to perform any obligation of Broker under this Agreement. This indemnification also applies to any Subcontractors engaged by Broker.

7. NOTICES

Any notice or other communication permitted or required to be given hereunder must be in writing and shall be deemed given if: (a) delivered in person, (b) mailed, by certified mail, return receipt requested, postage prepaid, (c) delivered by a commercial overnight courier, with receipt confirmed, or (d) transmitted by facsimile, with receipt confirmed by automatic transmission report, to the party involved at the address below or at such other address as a party may specify by proper written notice to the other party:

If to Minuteman:
Minuteman Health, Inc.
179 Lincoln Street
Boston, MA 02111
Attn: Broker Relations

cc: General Counsel

If to Broker:
[NAME]
[ADDRESS]
[ADDRESS]
Attn: [REDACTED]
Fax: [NUMBER]

8. MISCELLANEOUS

(a) Fraud, Waste and Abuse. Broker shall notify Minuteman immediately of (i) any actual or suspected fraud, waste, or abuse, (ii) any unauthorized acquisition or disclosure of confidential information (including but not limited to personal health information, personal information, and/or Minuteman's confidential business information), and/or (iii) any other legal or compliance related matter in any way relating to or arising out of the good or services provided pursuant to this Agreement. Broker/Contractor can contact Minuteman directly, or provide anonymous information by calling the Minuteman Compliance Hotline at 855-400-0098.

(b) Assignment. Neither this Agreement nor any right hereunder or interest herein may be assigned or transferred by either party without the express written consent of the other party, which may not be unreasonably withheld, provided that the Minuteman may assign this Agreement to a current or future affiliate of Minuteman or successor in interest to its business or assets without consent of Broker.

(c) Jurisdiction. The parties hereby consent to the personal jurisdiction of the state and federal courts located in the

Commonwealth of Massachusetts for any action or proceeding arising from or relating to this Agreement.

(d) Governing Law. This Agreement shall be governed by the substantive laws, but not the choice of law rules, of the Commonwealth of Massachusetts.

(e) Entire Agreement, Waiver, Amendment. This Agreement is the entire agreement of the parties and supersedes any prior agreements between them, whether written or oral, with respect to the subject matter hereof. No waiver, alteration, modification, or amendment of any of the provisions of this Agreement shall be binding unless in writing and signed by duly authorized representatives of each of the parties, effective as of the date stipulated herein.

(f) Severability. The invalidity or unenforceability of any provision of this Agreement, or any terms thereof, shall not affect the validity of this Agreement as a whole or other unaffected parts, which shall remain in full force and effect.

(g) Non-Disclosure. Without the Minuteman's prior written consent, the Broker shall not disclose to anyone the terms of this Agreement or the fact that the Broker has this arrangement with Minuteman, except (i) to the limited extent

that such disclosure is necessary in order for it to perform Services, (ii) to Subcontractors for their performance of Services, (iii) as necessary to Broker's business advisors such as its attorneys and accountants, who are under a confidentiality obligation, or (iv) as required by law.

(h) Use of Name. Neither the name of Broker nor that of Minuteman, nor any variation thereon nor adaptation thereof may be used for any purpose without the prior written approval of the party whose name is to be used.

(i) Counterparts. This Agreement may be executed in any number of counterparts, which together shall constitute one instrument. In the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof.

IN WITNESS WHEREOF, the parties hereto have had this Agreement executed by their authorized representatives.

[INSERT BROKER NAME]

MINUTEMAN HEALTH, INC.

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

[INSERT BROKER COMPANY]

Check here if the information is the same as above.

By: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT A

SERVICES AND COMPENSATION

I. Services

1. Broker shall provide producer services for Minuteman in the sale of Minuteman's health benefit plans to individuals and/or employer groups in the Commonwealth of Massachusetts and/or New Hampshire, as applicable.
2. Broker must possess and maintain every license required by law to perform services under this Agreement, including in every state in which Broker conducts business under this Agreement. Broker must provide proof of licensure to Minuteman upon execution of this Agreement and upon request. Broker must immediately notify Minuteman of any expiration, termination, revocation, suspension or any other action by any regulatory body.
3. If Broker provides producer services for Minuteman in the sale of non-group products sold through the Massachusetts Health Connector, whether such products are subsidy eligible or not, Broker shall comply with the terms of Exhibit C.
4. Broker represents and warrants that Broker is in compliance with all applicable state and federal laws, regulations, bulletins guidance and any professional competencies. This is an ongoing representation and warranty during the term of this Agreement and Broker shall immediately notify Minuteman of any non-compliance with any applicable law, regulation, bulletin, guidance or professional competency. Any violation of the foregoing shall give rise to Minuteman's immediate termination of this Agreement for cause. In addition, Broker shall comply with any and all Minuteman policies, procedures and guidelines.
5. Broker has no authority to act on Minuteman's behalf except as expressly provided in this Agreement. Without limiting the foregoing, Broker must not represent that Broker has authority to (i) bind coverage; (ii) accept a prospect for coverage under a health benefit plan; (iii) misrepresent or omit material facts in an application; (iv) modify or waive any health benefit plan or any health benefit plan's term regarding enrollment, coverage, or benefits; (v) distribute any advertisement, circular, or promotional literature that is inaccurate, misleading, or that Minuteman has not approved; (vi) sell a health benefit plan or other product not expressly authorized by this Agreement; or (vii) do any other thing, on behalf of Minuteman, not expressly permitted by this Agreement.
6. In the event the Broker receives funds on behalf of Minuteman from any person, Broker shall accept such funds from employer groups only in the form of checks made payable to "Minuteman Health, Inc." and shall forward such checks to Minuteman by the close of the business day following receipt thereof.
7. Minuteman authorizes Broker to sell Minuteman's health benefit plans under the terms of this Agreement. Broker agrees to solicit prospective prospects to enroll in one or more Minuteman health benefit plans. In making these solicitations, Broker shall comply with the following terms and conditions:
 - a. Any proposal Broker gives to a prospect must accurately reflect Minuteman's terms of coverage, including but not limited to benefits and premiums, and must not be misleading;
 - b. Broker may not alter any term of a proposal except with Minuteman's prior written approval;
 - c. Broker may not alter any term of a proposal without Minuteman's prior written approval;
 - d. Broker must accurately and completely record and submit to Minuteman or its agent all information that Minuteman requires in order to enroll prospects under a health benefit plan.
8. Broker shall maintain general liability coverage in amounts of no less than \$1

million and shall maintain said coverage during the term of this Agreement. Upon request, Broker shall provide to Minuteman evidence of such insurance and shall provide an updated declaration page upon renewal.

9. Minuteman shall not pay Broker commissions based on premiums paid by employer and procured by Broker until Broker provides Minuteman a written letter of confirmation from such employer designating Broker as its "Broker of Record."
10. Broker agrees to use best efforts to maintain the relationships between Minuteman and each prospect and to assist prospects in enrolling, maintaining and renewing coverage under any applicable health benefit plan.
11. Minuteman reserves the right to review and approve all applications for contracts with prospects identified by the Broker. Further, Minuteman or the applicable state health insurance exchange reserves the right to approve all Broker's proposals to ensure that all proposals are in conformance with Minuteman policies, guidelines and procedures. Minuteman's right of prior approval of all prospect contracts shall be clearly stated in all proposals prepared by the Broker. All enrollments shall take the form of the contract between the prospect and Minuteman.
12. By signing this Agreement, Broker certifies that Broker has not been convicted of, or pled guilty or no contest, to any criminal felony involving dishonesty or breach of trust and has not been convicted of an offense under Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Broker further agrees to notify Minuteman, in writing, immediately upon receiving notice of any misdemeanor or felony charges or any actions including, but not limited to, convictions by any governmental authority for commission of any act involving fraud, dishonesty, breach of trust, theft, misappropriation of money, or breach of any fiduciary duty.
13. Broker agrees that it will not create partnerships, arrange assignments, or use other devices as a means of combining business for the purpose of maximizing any

bonus payment or other reward from Minuteman. This provision does not entitle Broker to receive any bonus payment(s) or reward(s) from Minuteman if Broker is not otherwise eligible to receive any such bonus payment(s) or reward(s).

14. Broker shall disclose to all potential employer groups and individual policyholders that it is paid a commission by Minuteman hereunder.

II. Compensation

1. In consideration for Broker's services in marketing Minuteman health benefit plans, Minuteman shall pay Broker or Broker's Company identified on the signature line above, as applicable, a commission in accordance with Section II.3 of this Exhibit A on a monthly basis based on number of enrolled subscribers (or enrolled members, when applicable), who have enrolled in Minuteman products. For Group business, the commission will be calculated by the number of subscribers per employer group on the last day of each month. The records of the employer group as to enrollment shall be conclusive. For non-Group business, the commission will be calculated by the number of effective non-Group subscribers (or enrolled members, when applicable) represented by Broker on the last day of each month and in accordance with this Exhibit A, Section II, 3, and Exhibit C of this Agreement, below. Such compensation shall be payable only so long as this Agreement is in effect and Broker is recognized as the Broker of Record to receive said compensation.
2. In the event Minuteman pays a commission to Broker or Broker's Company identified on the signature line above, due to error, whether Broker or Minuteman error, including, but not limited to, payment of commission for premiums that the employer fails to pay to Minuteman, Broker shall promptly refund all such commission to Minuteman. If such commissions are not refunded to Minuteman within (30) days of Minuteman's written request for such refund, Minuteman may collect such amount thereof directly from

Broker or offset any future commission payable against such amount.

Broker Compensation Schedule, as it may change or be amended from time to time in Minuteman's sole discretion.

3. Broker Commission: Broker will be compensated according to Minuteman's

EXHIBIT B

Business Associate Exhibit

For purposes of this Exhibit B, Broker will be referred to as “Business Associate”.

1. Obligations and Activities of Business Associate

- (a) Business Associate shall not Use or further Disclose Protected Health Information other than as permitted or required by this Exhibit B or as Required by Law.
- (b) Business Associate shall use appropriate safeguards to prevent any Use or Disclosure of the Protected Health Information not provided for by this Exhibit B.
- (c) Reports of Uses or Disclosures of Protected Health Information Not Provided for by this Exhibit B. Business Associate shall immediately report to Minuteman any Use or Disclosure of Protected Health Information or an Individual’s information not provided for by this Exhibit B, including without limitation any Breach of Protected Health Information, whether secured or Unsecured Protected Health Information, and any Security Incident involving the Protected Health Information of which the Business Associate becomes aware. Business Associate shall take any action necessary to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a Security Incident or Use or Disclosure of Protected Health Information by Business Associate in violation of the requirements of this Exhibit B.
 - (i) Notice of Breach of Unsecured Protected Health Information. In addition to the notice requirements specified in Section 1(c) above, in the event of a Breach of Unsecured Protected Health Information, Business Associate shall (i) without unreasonable delay, but in any event no later than fifteen (15) days following the discovery of the Breach, notify Minuteman of the identification of each Individual whose Protected Health Information has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or Disclosed during such Breach, as well as all other available information that Minuteman’s Covered Entities are required to include in their Breach notifications, and (ii) take any action required or reasonably requested by Minuteman to assist Minuteman and its Covered Entities in complying with applicable Breach notification requirements.
- (d) Agents. Business Associate shall ensure that any agent or subcontractors of the Business Associate, including any of its Business Associate Subcontractors, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of, Minuteman agrees in writing to the same restrictions and conditions that apply through this Exhibit B to Business Associate with respect to such information, including without limitation the obligation to immediately notify Business Associate of any Breach of Protected Health Information.
- (e) Access and Amendment. If Business Associate maintains Protected Health Information in a Designated Record Set, the Business Associate shall:
 - (i) provide access, at the request of Minuteman, and in the time and manner designated by Minuteman, to Protected Health Information in a Designated Record Set, to Minuteman or, as directed by Minuteman, to an Individual in order to meet the requirements under 45 C.F.R. § 164.524; and
 - (ii) make any amendment(s) to Protected Health Information in a Designated Record Set that Minuteman directs or agrees to pursuant to 45 C.F.R. § 164.526 at the request of Minuteman or an Individual, and in the time and manner designated by Minuteman.

- (f) Other Requests. In the event of an Individual's request (i) for communications by alternative means or at alternative locations ("confidential communications" under the HIPAA Standards) and/or (ii) to treat another person as the Individual's personal representative, Business Associate shall reasonably cooperate with Minuteman in responding to any such request.
- (g) Access to Books and Records. Business Associate shall make internal practices, books, and records relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Minuteman available to Minuteman or the Secretary, in a time and manner designated by the Minuteman or the Secretary, for purposes of the Secretary determining Minuteman's or Business Associate's compliance with the HIPAA Standards.
- (h) Compliance with Requests to Restrict Certain Disclosures of Protected Health Information to Health Plans Pertaining to Items or Services Paid Out of Pocket. If an Individual requests that Business Associate restrict the disclosure of the Individual's Protected Health Information to carry out Treatment, Payment, or Health Care Operations, Business Associate agrees that it will comply with the requested restriction if, except as otherwise Required by Law, (i) the disclosure is to a health plan for purposes of carrying out Payment or Health Care Operations (and is not for purposes of carrying out Treatment), and (ii) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full. Business Associate shall promptly notify Covered Entity of any request by an Individual to restrict the disclosure of the Individual's Protected Health Information as described above.
- (i) Accounting of Disclosures.
- (i) Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Minuteman, its Covered Entities or Business Associate to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528.
- (ii) Business Associate shall provide to Minuteman, in a time and manner designated by Minuteman, information pertaining to Disclosures of Protected Health Information, by Business Associate to permit Minuteman and its Covered Entities to respond to a request by an Individual for an accounting of Disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528. In the event that Business Associate receives a direct request from an Individual for an accounting of disclosures of Protected Health Information made by Business Associate (including, effective January 1, 2011 or such later date as provided by the HIPAA Standards, Disclosures made from Minuteman's Electronic Health Record for Treatment, Payment, or Health Care Operation purposes during the three (3) years prior to the date of such request), Business Associate agrees to provide the Individual with such an accounting in accordance with 45 C.F.R. § 164.528, and shall provide a copy of such accounting to Minuteman.
- (j) Safeguards. Business Associate shall implement and maintain safeguards as necessary to ensure that all Protected Health Information is Used or Disclosed only as authorized under the HIPAA Standards and this Exhibit B. Business Associate agrees to assess potential risks and vulnerabilities to Protected Health Information in its possession and develop, implement and maintain the administrative, physical and technical safeguards required by the HIPAA Standards that protect the confidentiality, availability and integrity of the Protected Health Information that Business Associate creates, receives, maintains or transmits on behalf of Minuteman. Business Associate shall implement policies and procedures that address Business Associate's compliance with applicable HIPAA Standards and its efforts to detect, prevent and mitigate the risks of identity theft resulting from the improper Use and/or Disclosure of an Individual's information.

- (k) Compliance with EDI Standards. If Business Associate conducts electronically any of the health care transactions identified as standard transactions in the EDI Standards for or on behalf of Minuteman, Business Associate shall comply with all applicable requirements of the EDI Standards when conducting standard transactions for or on behalf of Minuteman.
- (l) Compliance with Law. Business Associate shall comply with all applicable state and federal laws, regulations and rules relating to the privacy and security of personal information.
- (m) Audits; Penalties. Business Associate acknowledges that Business Associate may be subject to audits by the Department of Health and Human Services to ensure compliance with the HIPAA Standards, and that Business Associate is subject to civil and criminal penalties for violations of HIPAA.
- (n) Annual Questionnaire. In addition to any audit rights contained in the Agreement, Business Associate shall respond, on at least an annual basis, to a Privacy and Security questionnaire issued by Minuteman. If, after a review of the responses to the questionnaire Minuteman determines that an onsite review is needed, Business Associate shall allow Minuteman to perform an onsite audit in a reasonable time and manner agreed to by the parties.
- (o) Subpoenas and other legal process. In the event Business Associate receives a subpoena or other legal process that compels the Disclosure of an Individual's Protected Health Information, Business Associate shall immediately notify Minuteman to allow Minuteman to review the request and, if it deems necessary, seek a protective order.

2. Permitted Uses and Disclosures by Business Associate

- (a) Except as otherwise limited in this Exhibit B, Business Associate may Use or Disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Minuteman, as specified in the Agreement, provided that such use or disclosure would not violate the HIPAA Standards if done by Minuteman.
- (b) Except as otherwise limited in this Exhibit B, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- (c) Except as otherwise limited in this Exhibit B, Business Associate may Disclose Protected Health Information for the proper management and administration of the Business Associate, provided that Disclosures are Required by Law, or Business Associate obtains reasonable assurances from the person to whom the information is Disclosed that it will remain confidential and used or further Disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been Breached.
- (d) Limited Data Set and Minimum Necessary Requirements. Except as otherwise permitted by the HIPAA Standards, when using or disclosing Protected Health Information or requesting or responding to a request for Protected Health Information, Business Associate must limit such Protected Health Information, to the extent practicable, to a Limited Data Set, or if more information than a Limited Data Set is required, to the minimum necessary to accomplish the intended purpose of such Use, Disclosure, or request.
- (e) Prohibition on Receipt of Remuneration in Exchange for Protected Health Information. Except as otherwise specifically permitted by the HIPAA Standards, Business Associate agrees that it will not directly or indirectly receive remuneration in exchange for any Protected Health Information unless Minuteman has obtained from an Individual a valid authorization that includes a

specification of whether the Protected Health Information can be further exchanged for remuneration by the entity receiving the Protected Health Information of the Individual.

- (f) Use and Disclosure of Protected Health Information for Fundraising and Marketing. Except as otherwise specifically permitted by the HIPAA Standards, Business Associate agrees that it will not Use or Disclose Protected Health Information in connection with any fundraising and/or marketing communication unless Minuteman has obtained a valid authorization from each Individual who will be a recipient of any such communication.

3. Obligations of Minuteman

Minuteman shall not request Business Associate to Use or Disclose Protected Health Information in any manner that would not be permissible under the HIPAA Standards if done by Minuteman or that is not otherwise expressly permitted under this Exhibit B.

4. Term and Termination

- (a) Term. The Term of this Exhibit B shall be effective as of the Effective Date, and shall terminate when all of the Protected Health Information provided by Minuteman to Business Associate, or created or received by Business Associate on behalf of Minuteman, is destroyed or returned to Minuteman, or, if it is infeasible to return or destroy Protected Health Information, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) Termination by Minuteman for Material Breach. Upon Minuteman's knowledge of a material breach of this Exhibit B by Business Associate, Minuteman shall provide an opportunity for Business Associate to cure the breach or end the violation, and Minuteman shall terminate the Agreement if Business Associate does not cure the breach or end the violation within the time specified by Minuteman, or immediately terminate the Agreement if Business Associate has breached a material term of this Exhibit B and cure is not possible, as determined by the Minuteman in its reasonable discretion.
- (c) Termination by Business Associate for Material Breach. Upon Business Associate's knowledge of a material breach of this Exhibit B by Minuteman, Business Associate shall provide an opportunity for Minuteman to cure the breach or end the violation, and Business Associate shall terminate the Agreement if Minuteman does not cure the breach or end the violation within the time specified by Business Associate, or immediately terminate the Agreement if Minuteman has breached a material term of this Exhibit B and cure is not possible, as determined by the Business Associate in its reasonable discretion.
- (d) Effect of Termination.
 - (i) Except as provided in subparagraph (ii) of this Section 4(d), upon termination of the Agreement or this Exhibit B, for any reason, Business Associate shall return or destroy all Protected Health Information received from Minuteman, or created or received by Business Associate on behalf of Minuteman. This provision shall apply to Protected Health Information that is in the possession of Business Associates or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - (ii) In the event that Business Associate determines that returning or destroying the Protected Health Information is infeasible, Business Associate shall provide to Minuteman notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the parties that return or destruction of Protected Health Information is infeasible, Business Associate shall extend the protections of this Exhibit B to such Protected Health Information and limit further uses and disclosures of such Protected

Health Information to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such Protected Health Information.

5. **Miscellaneous**

- (a) **Survival.** The respective rights and obligations of the parties under Section 4(d) and the obligations of Business Associate under Section 5(j) of this Exhibit B shall survive the termination of the Broker Agreement.
- (b) **Interpretation.** Any ambiguity in this Exhibit B shall be resolved in favor of a meaning that permits Minuteman to comply with the HIPAA Standards.
- (c) **No Private Cause of Action.** This Exhibit B is not intended to and does not create a private cause of action by any individual, other than the parties to this Exhibit B, as a result of any claim arising out of the breach of this Exhibit B, the HIPAA Standards or other state or federal law or regulation relating to privacy or confidentiality.
- (d) **Amendment.** In the event that any law or regulation is enacted or promulgated regarding the protection of health information that is in any way inconsistent with the terms of this Exhibit B or that interferes with Minuteman's obligations with respect to the protection of health information so as to warrant a modification to this Exhibit B or in the event any HIPAA Standard is amended or modified, Minuteman shall have the right to amend this Exhibit B so as to bring it into compliance with any such change by providing notice thereof to Business Associate but without having to obtain Business Associate's consent thereto. Except as set forth in this Section 5(d) and Section 5(e) below, this Exhibit B shall only be amended or modified upon written consent of the parties.
- (e) **Forthcoming Guidance and Regulation.** Business Associate agrees to comply with any additional guidance and regulations issued with respect to HIPAA and/or HITECH, which shall be automatically incorporated herein, without Minuteman having to provide notice thereof to Business Associate.
- (f) **Application of State Law.** Where any applicable provision of Massachusetts law relates to the privacy of health information and is not preempted by HIPAA, as determined by application of the HIPAA Standards, the parties shall comply with the applicable provisions of Massachusetts law, including but not limited to Massachusetts General Laws c. 93H, § 1 *et. seq.*, and Massachusetts regulations set forth at 201 CMR 17.00.
- (g) **Governing Law.** This Exhibit B shall be interpreted, construed and governed according to federal law and the laws of the Commonwealth of Massachusetts. The parties agree that venue shall lie in federal and state courts in Massachusetts, without regard to its conflicts of law principles, regarding any and all disputes arising from this Exhibit B.
- (h) **Injunctive Relief.** The parties hereto understand and agree that the terms of this Exhibit B are reasonable and necessary to protect the interests of the Minuteman and the Business Associate. The parties further agree that the Minuteman would suffer irreparable harm if the Business Associate breached this Exhibit B. Thus, in addition to any other rights or remedies, all of which shall be deemed cumulative, the Minuteman shall be entitled to obtain injunctive relief to enforce the terms of this Exhibit B.

Exhibit C

Terms and Conditions for Individual Health Exchange Sales

1. Brokers shall provide Minuteman, upon execution of this Agreement and annually thereafter, a copy of their Massachusetts Connector Non-Group Certification.
2. With respect to the sale or renewal of any non-group QHPs to individuals through the Exchange or to whom Minuteman pays a commission or other fee for such sales or renewals Broker will not (a) seek payment of any fee, commission, or other charge of any kind from the individual who is being assisted, regardless of whether or not the individuals enrolls in a QHP offered by Minuteman or any other carrier; or (b) offer a rebate, gift, or other form of remuneration designed to induce the individual to choose a QHP offered by Minuteman or any other carrier.
3. Minuteman will not pay any commission to Broker for the enrollment of an individual in any form of Medicaid coverage or for the enrollment of an individual in the Health Safety Net.
4. Minuteman shall not provide to Broker, and Broker shall not accept, any commissions or other payments for the sale or renewal of non-group QHPs to individuals through the Exchange in such a way that Broker receives a different amount of compensation for the sale or renewal of certain Minuteman QHPs as compared to other Minuteman QHPs. Further, Minuteman shall not provide, and Broker shall not accept, any commissions or other payments for the sale or renewal of non-group QHPs to individuals in such a way that Broker has a financial incentive to sell, renew or enroll individuals in QHPs that will have a higher cost to the individual.
5. Prior to providing assistance to any individual for the sale or renewal of a non-group QHP through the Exchange, Broker shall disclose the following information: (a) that Broker may receive compensation from an insurance carrier for the assistance; (b) there are a number of insurance carriers that the individual can choose from if eligible to obtain coverage through the Health Connector; and (c) the individual may be eligible for federal and/or state subsidies and the agent or broker must tell the individual about eligibility for all subsidy programs, including Medicaid (MassHealth) coverage. Broker shall certify that he/she has made such disclosures in the Broker Attestation (attached), and Broker shall not be eligible for any compensation or commission if Broker fails to make such disclosures.