

Virginia Health Benefit Exchange Agent Agreement

This Agent Agreement (hereinafter “Agreement”) is entered into between the Virginia Health Benefit Exchange d/b/a Virginia’s Insurance Marketplace (hereinafter “Exchange”), a division of the State Corporation Commission (SCC), established by the Commonwealth of Virginia pursuant to Virginia Code §38.2-6500 *et seq.*, and the agent, or entity, that registered to use the Exchange Platform (hereinafter “Registrant”).

45 C.F.R. 155.220(d) requires agents who enroll qualified individuals in Qualified Health Plans (QHPs) or Qualified Dental Plans (QDPs) through the Exchange, or who assist individuals in applying for Advance Premium Tax Credit (APTCs) or Cost Sharing Reduction (CSRs,) to execute an Agreement with the Exchange. Pursuant to 45 C.F.R. 155.220(d) this Agreement provides the general standards and requirements agents must meet to utilize the Exchange Platform to perform enrollment and application functions, including the privacy and security standards and implementation specifications Registrant must comply with in accordance with 45 C.F.R. 155.260(b).

The Exchange and Registrant each acknowledge and agree that they enter into this Agreement voluntarily and for the purposes of ensuring the confidentiality, privacy and security of data accessed by Registrant under this Agreement and ensuring compliance with Federal and State law.

1. Definitions

Advanced Premium Tax Credit (“APTC”) means advanced payment of the premium tax credit authorized by 26 U.S.C. § 36B and otherwise defined as advanced payment of the premium tax credits in 45 CFR 155.20.

Agent means a person or entity, licensed by the SCC, to sell, solicit, or negotiate contracts of insurance pursuant to Chapter 18, Title 38.2 of the Code of Virginia.

Breach means the loss of control, compromise, unauthorized disclosure, unauthorized acquisition, or any similar occurrence where (1) a person other than an authorized user accesses or potentially accesses Personally Identifiable Information, or (2) an authorized user accesses PII for an other than authorized purpose.

Consumer means a person who, for him/herself, or on behalf of another individual, seeks information related to eligibility or coverage through a Qualified Health Plan offered through the Exchange or an Insurance Affordability Program, or whom Registrant assists in applying for a QHP, APTC or CSR and/or completing enrollment in a QHP.

Cost-Sharing Reduction (“CSR”) means reductions in cost-sharing for an eligible individual enrolled in a silver-level plan in the Exchange.

Entity means any person, whether an individual or legal organization, whose business is directly related to enrollment through the Exchange Platform, or to assist Qualified Individuals in applying for AOTC and/pr CSRs and in applying for and enrolling in

Qualified Health Plans or Qualified Dental Plans in a manner that is considered to be through the Exchange Platform.

Exchange means the health insurance exchange established by Virginia Code § 38.2-6500 et seq., that facilitates or assists in facilitating enrollment in qualified health plans, qualified dental plans, and insurance affordability programs.

Exchange Platform means the technical platform the SCC makes available to Agents for the purpose of enrolling qualified individuals into QHPs.

Federal and State Laws means any and all applicable federal and state laws, rules, regulations, or guidance documents, as amended during the course of this Agreement, whether applicable singularly or in concert, that are not otherwise specified by name or legal citation, including, but not limited to ...the Patient Protection and Affordable Care Act, and the regulations promulgated thereunder; the Health Insurance Portability and Accountability Act of 1996, and the regulations promulgated thereunder, and the Health Information Technology for Economic and Clinical Health Act of 2009.

Health Insurance Portability and Accountability Act (“HIPAA”) means the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, as amended, and its implementing regulations.

Incident/Security Incident means an occurrence that (1) actually or imminently jeopardizes, without lawful authority, the integrity, confidentiality, or availability of information or an information system; or (2) constitutes a violation or imminent threat of violation of law, security policies, security procedures, or acceptable use policies.

Insurance Affordability Program has the meaning set forth at 45 CFR 155.300(a).

Patient Protection and Affordable Care Act (“PPACA” or “Affordable Care Act” or “ACA”) means the Patient Protection and Affordable Care Act (Public Law 111-148), as amended by the Healthcare and Education Reconciliation Act of 2010 (Public Law 111-152), which are referred to collectively as the Affordable Care Act or the ACA.

Personally Identifiable Information (“PII”) means information that can be used to distinguish or trace an individual’s identity either alone or when combined with other information that is linked or linkable to a specific individual.

Plan Year has the meaning set forth at 45 CFR 155.20.

Qualified Health Plan (“QHP”) has the meaning set forth at 45 CFR 155.20. For purposes of this Agreement, QHP shall also include Qualified Dental Plans (QDPs) certified to sell on the Exchange.

Unsecured PII shall include, but not be limited to, electronic PII that is not encrypted by use of an algorithmic process to transform data into a form in which there is a low probability of assigning meaning without use of a confidential process or key.

2. Privacy Notice Statement

Prior to collecting PII, Registrant must provide consumers with a Privacy Notice Statement.

2.1 Privacy Notice Statement Requirements

The Privacy Notice Statement must be prominently and conspicuously displayed on a public-facing website, if applicable, or on the electronic and/or paper form Registrant will use to gather and/or request the PII. The Privacy Notice Statement must be written in plain language and, provided in a manner that is accessible and timely to people living with disabilities and with limited English proficiency. The Privacy Notice Statement must contain, at a minimum, the following information:

- a. The legal authority to collect the information;
- b. The purpose for which the information is being collected;
- c. The authorized use(s) and disclosure(s) of the information;
- d. To whom the information may be disclosed, and for what purposes;
- e. How the information will be kept secure;
- f. Whether the request to collect the information is voluntary or mandatory under the applicable law;
- g. The effects of non-disclosure on a Consumer if a Consumer chooses not to provide the requested information;

Registrant shall maintain its Privacy Notice Statement content by reviewing and revising it, as necessary, and at a minimum, on an annual basis, as well as before or as soon as possible after any change to its privacy policies and procedures. If Registrant operates a website, it shall ensure that descriptions of its privacy and security practices, and information on how to file complaints with the Exchange and Registrant are publicly available on Registrant's website.

3. Standards of Conduct

In order to facilitate operation of the Exchange, it is expected that Registrant will access and utilize the Exchange Platform to enroll individuals in QHPs and also to assist individuals in applying for APTCs and CSRs. In furtherance of this purpose, and in consideration of the mutual promises and covenants contained herein, Registrant shall:

- 3.1** Prior to enrolling or assisting any individuals, register with the Exchange, and complete all registration requirements by the date set by the Exchange.
- 3.2** Complete training as required by the Exchange, State and Federal Law.
- 3.3** Comply with the privacy and security standards contained within this Agreement, 45 C.F.R. 155.260(b), and applicable Federal and State laws.
- 3.4** Comply with all Federal and State laws and regulations, Exchange policies and procedures, and Bureau of Insurance regulations, policies, and procedures.
- 3.5** Maintain valid Virginia insurance license and remain in good standing in accordance with Virginia law, regulations, and Bureau of Insurance policies and procedures.
- 3.6** Perform the assistance, enrollment and application functions contemplated by this agreement in a fair, accurate, impartial, and professional manner, consistent with industry standards.
- 3.7** Utilize and interact with the Exchange Platform in an authorized manner. Authorized use of the platform includes, but is not limited to:
 - a. Register only one account per Registrant;
 - b. Safeguard log-in credentials and not allow any other person, including administrative assistants or other employees to use Registrant's log-in credentials to access the Exchange Platform;
 - c. Refrain from automated interactions with the Exchange Platform;
 - d. Only conduct searches for consumers who have given Registrant consent to access and use their PII for purposes of assisting the Consumer in applying for and enrolling in a QHP or Insurance Affordability Program through the Exchange;
- 3.8** Provide consumers with correct information, without omission of material fact, regarding the Exchange, QHPs offered through the Exchange, and insurance affordability programs.
- 3.9** Refrain from marketing or conduct that is misleading, coercive, or discriminates based on race, color, national origin, disability, age, sex, or gender.
- 3.10** Provide the Exchange with correct information when enrolling or assisting Consumers and enter only email addresses, telephone numbers and mailing addresses that belong to and are accessible to the Consumer, and not affiliated with or owned by Registrant or Registrant's business.

- 3.11 Obtain the consent of the Consumer prior to assisting with or facilitating application or enrollment through the Exchange.
- 3.12 If the Exchange elects to create a directory of agents who provide enrollment and application assistance and make such directory publicly available, Registrant agrees to be listed in such directory, provided Registrant qualifies based on the criteria determined by the Exchange.
- 3.13 Maintain a correct and up-to-date Exchange registration and profile in the National Insurance Producer Registry, including an up-to-date National Producer Number, email address, unique text enabled phone number, and business address.

4. Privacy and Security

This Agreement governs any Personally Identifiable Information (PII) that is created, collected, disclosed, accessed, maintained, stored, or used by Registrant related to Registrant's activities performed in conjunction with this Agreement. In signing this Agreement, Registrant agrees to comply with the privacy and security standards and implementation specifications delineated in 1411(g) of the ACA and established by the Exchange. The Exchange's Privacy and Security Standards can be found at marketplace.virginia.gov. Registrant shall incorporate privacy and security standards and implementation specifications, where appropriate, in its standard operating procedures that are associated with functions involving the creation, collection, disclosure, access, maintenance, storage, or use of PII. The privacy and security standards and implementation specifications shall be available to all of Registrant's Workforce members whose responsibilities entail the creation, collection, maintenance, storage, access or use of PII.

4.1 Permitted Uses and Disclosure of PII

Registrant may only create, collect, access, maintain, store, use or disclose PII as necessary to perform authorized functions contemplated in this Agreement, as required by Federal and State law, and for the purposes and functions as stated in Registrant's Privacy Notice Statement. Further, Registrant may only disclose PII when such disclosure is (1) required by law; or (2) Registrant obtains reasonable assurances from the person or entity to whom PII is disclosed that the PII will remain confidential and be used or further disclosed only as required by federal and state law and only for the purpose for which it was originally disclosed by Registrant. Registrant agrees to make uses, disclosures, and requests for PII only to the extent necessary to ensure the efficient operation of the Exchange. Registrant shall not use or disclose PII in a manner that would violate 45 C.F.R. § 155.260.

- a. Authorized Functions Registrant may create, collect, access, maintain, store, and use PII only for:
 - i. Assisting with application, eligibility, and enrollment processes for QHPs offered through the Exchange;

- ii. Supporting QHP selection and enrollment by assisting with plan selection and plan comparisons;
- iii. Assisting with applications for the receipt of APTC or CSRs, and selecting an APTC amount, if applicable;
- iv. Facilitating the collection of standardized attestations acknowledging the receipt of the APTC or CSRs determination, if applicable;
- v. Assisting with the application for and determination of certificates of exemption, if applicable;
- vi. Assisting with filing appeals in connection with Exchange eligibility determinations;
- vii. Transmitting information about the Consumer's decisions regarding QHP enrollment and/or CSRs and APTC information to the Exchange, if applicable;
- viii. Facilitating payment of the initial premium amount for the appropriate QHP;
- ix. Facilitating an Enrollee's ability to disenroll from a QHP;
- x. Educating Consumers on Insurance Affordability Programs, and if applicable, informing such individuals of eligibility for Medicaid or the Family Access to Medical Insurance Security (FAMIS);
- xi. Assisting Consumers with reporting changes in eligibility status to the Exchange throughout the coverage year, including changes that may impact eligibility (e.g., adding a dependent);
- xii. Correcting errors in the application for QHP enrollment;
- xiii. Informing or reminding Consumers when QHP coverage should be renewed or when Consumers may no longer be eligible to maintain their current QHP coverage because of age, or to inform Consumer of QHP coverage options at renewal;
- xiv. Providing appropriate information, materials, and programs to Consumers—or their Authorized Representatives—to inform and educate them about the use and management of their health information and services and options offered through the selected QHP and among the available QHP options;

- xv. Contacting Consumers, Applicants, Qualified Individuals, and Enrollees—or these individuals’ legal representatives or Authorized Representatives—to assess their satisfaction or resolve complaints with services provided by Registrant in connection with the Exchange, Registrant, or QHPs;
- xvi. Providing assistance in communicating with QHP Carriers;
- xvii. Carrying out Registrant’s legal responsibilities related to QHP Carrier functions in the Exchange, as required by Registrant’s contractual relationships with QHP Issuers; and
- xviii. Performing other functions substantially similar to those above and such other functions that the Exchange may approve in writing.

4.2 Prohibited Uses and Disclosure of PII

- a. Registrant shall not use or disclose PII for the purposes of marketing a product or service unless necessary to perform its Exchange-related functions or required by Federal and State law. For the purposes of this provision, “marketing” shall mean a communication about a product or service that encourages recipients of the communication to purchase or use the product or service.
- b. Registrant shall not directly or indirectly receive remuneration in exchange for any PII of an individual.
- c. PII shall never be used to discriminate against a Consumer, Applicant, Qualified Individual, or Enrollee.
- d. Registrant shall not request information regarding citizenship or immigration status for an individual who is not seeking coverage for him/herself, and Registrant shall not require an individual to provide a Social Security Number unless the individual is seeking coverage for him/herself or if such SSN is necessary for verification of household income and family size.

4.3 Data Security

- a. Registrant must ensure that PII is protected with reasonable operational, administrative, technical, and physical safeguards to ensure its confidentiality, integrity, and availability, and to prevent unauthorized or inappropriate access, use, destruction, or disclosure. Registrant shall establish and implement operational, administrative, technical, and physical safeguards that are consistent with federal and state laws and regulations, and such safeguards shall ensure that:

- i. PII is only used by or disclosed to those authorized to receive or view it;
 - ii. PII is secured from loss, theft, and inadvertent disclosure at *all* times;
 - iii. Laptops and other electronic devices/media containing PII are encrypted, and password protected;
 - iv. Electronic PII is stored in an encrypted format;
 - v. PII sent by email is encrypted and being sent to and received by persons or entities authorized or intended to receive such information;
 - vi. PII transmitted electronically is transmitted only by secure electronic interfaces;
 - vii. Access to PII is restricted and only available for those authorized individuals who need such information to perform their official duties in connection with purposes identified in this Agreement;
 - viii. All persons who have access to PII will be advised of the confidential nature of the information, the safeguards required to protect it, and the civil and criminal sanctions for noncompliance contained in the applicable federal and state laws;
 - ix. PII is protected against any reasonably anticipated threats or hazards, to the confidentiality, integrity, and availability of such information;
 - x. PII is protected against any reasonably anticipated uses or disclosures of such information that are not permitted or required by law;
 - xi. PII is securely destroyed or disposed of in an appropriate and reasonable manner, in accordance with retention schedules.
- b. Registrant shall monitor, periodically assess, and update its security controls and related system risks to ensure the continued effectiveness of those controls.
 - c. Registrant must promptly notify the Exchange of any significant or material change in its administrative, technical, or operational environments. Such a material change includes, but is not limited to, staff and employment

changes to the extent an individual with access to the Exchange Platform is no longer employed by or affiliated with Registrant.

- d. All individuals granted access to PII must be legally bound to adhere to the same privacy and security standards and obligations stated herein.

4.4 Accountability, Incidents and Breaches

- a. Registrant shall develop a training and awareness program for those members of its workforce who create, collect, disclose, access, maintain, store, and use PII. Registrant shall require that members of its workforce complete privacy and security training, as appropriate for their work duties and level of exposure to PII, prior to assuming responsibility for or having access to PII.
- b. Registrant shall report any suspected or known Breach of PII and any suspected or known Security Incident to the Exchange **immediately**, and no later than 24 hours. Reports shall be made to the Virginia's Insurance Marketplace Customer Service Center by telephone at 888-687-1502 AND by email notification to the Marketplace's Chief of Privacy and Security at infosec@marketplace.virginia.gov. The person making a Breach or Incident Report must identify Registrant's designated personnel (for example, a privacy official or officer) responsible for handling and managing the Incident or Breach, and that person's contact information. An initial report should also include a description of the incident, its impact, and, if known, the expected number of consumers impacted.
- c. If a use or disclosure amounts to a Breach of PII, Registrant shall provide to the Exchange, at the Exchange's request:
 - i. A report that includes the names of the individuals whose PII has been or are reasonably believed to have been the subject of the Breach.
 - ii. A draft letter for the Exchange to review and approve prior to Registrant's notification to the affected individual(s) that their PII has been or is reasonably believed to have been the subject of a Breach, and such letter must include:
 - A brief description of what happened, including the date of the Breach and the date of the discovery of the Breach;
 - The types of Unsecured PII that were involved in the Breach;
 - Any steps the affected individual(s) should take to protect themselves from potential harm resulting from the Breach;

- The toll-free telephone numbers and addresses for the major consumer reporting agencies;
 - The toll-free telephone numbers, addresses and website for the (1) FTC and (2) the Virginia Office of the Attorney General
 - A brief description of what the Exchange and Registrant are doing to investigate the Breach, to mitigate losses and to protect against further Breaches;
 - Contact procedures for the affected individuals to ask questions or learn additional information, which shall include a toll-free telephone number, postal address, email address and website address.
- iii. All individuals with access to PII must be legally bound to comply with Registrant’s Breach and Incident procedures.
- d. Registrant agrees to cooperate with the Exchange in resolving any Breach or Incident, including, if requested by the Exchange, a return or destruction of any PII; the provision of a formal response to an allegation of unauthorized use, reuse, or disclosure of PII; and/or the submission of a corrective action plan with steps designed to prevent any future unauthorized use, reuse, or disclosure of PII.
- e. Registrant agrees to mitigate, to the extent practicable, any harmful effect known to Registrant of a use or disclosure of PII by Registrant or any of its agents or employees in violation of this Agreement.
- f. Registrant must implement and comply with procedures for reporting and addressing any Breach or Incident that are consistent with the requirements above. Those Breach and Incident Handling Procedures must be included in Registrant’s written policies and procedures. Further, Registrant’s policies regarding Breach and Incident Handling, must, at a minimum:
- i. Identify Registrant’s personnel responsible for reporting and managing Breaches and Incidents to the Exchange;
 - ii. Provide details regarding the identification, response, recovery and follow-up of Incidents and Breaches, including triggers to notify the Exchange for a need to immediately suspend or revoke access to the Exchange Platform for containment purposes.
 - iii. Require reporting of any suspected or known Breach of PII and any suspected or known Security Incident to the Exchange

immediately, and no later than 24 hours. Reports shall be made to the Virginia's Insurance Marketplace Customer Service Center by telephone at 888-687-1502 AND by email notification to the Marketplace's Chief of Privacy and Security at infosec@marketplace.virginia.gov. The person making a Breach or Incident Report must identify the designated personnel (for example, a privacy official or officer) responsible for reporting and managing Incidents or Breaches, and that personnel's contact information. An initial report should also include a description of the incident, its impact, and, if known, the expected number of consumers impacted.

- g. Registrant agrees to make its internal practices, books and records including PII available to the Exchange and/or the Secretary of the U.S. Department of Health and Human Services for purposes of determining compliance with the ACA's privacy and security regulations as well as privacy and security standards established and implemented by the Exchange.
- h. Registrant acknowledges and agrees that irreparable harm will result to the Exchange in the event of a violation of this Agreement. As such, in the event of a violation of any of the terms of this Agreement, the Exchange shall be entitled to restrict and enjoin Registrant from any continued violation. Registrant shall reimburse and indemnify the Exchange from actual losses incurred as a result of Registrant's violation, including reasonable attorney's fees, and expenses and costs that were reasonably incurred as a result of Registrant's violation. The remedies contained herein are in addition to, not in lieu of, any action for damages and/or other remedy the Exchange may have for violation of any part of this Agreement, or which may be available to the Exchange at law or in equity.

4.5 Data Quality and Integrity

- a. Registrant shall take reasonable steps to ensure that PII is complete, accurate, and up-to-date, and that such data has not been altered or destroyed in an unauthorized manner, thereby ensuring the confidentiality, integrity, and availability of PII.
- b. Registrant should, to the greatest extent practicable, collect PII directly from the Consumer or his/her Authorized Representative.

4.6 Consumer Access and Right to Amend

Registrant must provide Consumers a simple and timely means to access their PII. Registrant must develop and implement policies and procedures to verify the identity of any Consumer or Authorized Representative who requests access to, notification of, or modification of PII collected by Registrant. Such identity verification policies and procedures should include confirmation of a Consumer's or Authorized Representative's legal authority to access, receive notification of, or

modify PII. These identity verification policies and procedures should be memorialized in Registrant's written policies and procedures. Registrant shall provide access to the PII in the form that is requested, if possible. If Registrant is unable to produce the requested PII, Registrant must provide an explanation for the inability to provide the PII.

Registrant must provide Consumers with a simple and timely means to request amendment, correction, substitution, or deletion of PII maintained, used, or stored by Registrant, if a Consumer believes the PII is inaccurate, incomplete, or unnecessary to accomplish an Exchange-related function. Registrant shall instruct such individual as to how to make their request, specifically informing the individual of a person to address the request to, the information that must be contained in the request, and the means to make the request. Such a request must be granted or denied within 10 business days.

If, after review of the request, Registrant agrees that the PII is inaccurate, incomplete, or unnecessary to accomplish the purpose for which it was obtained, then such PII shall be amended, corrected substituted or deleted in accordance with federal and state law. If the Registrant does not agree that the PII should be amended, corrected, substituted, or deleted, the requestor shall receive written notice of that determination from Registrant.

5. Termination

5.1 Compliance

The Exchange may undertake compliance actions for improper use of the Exchange platform, unprofessional conduct, mishandling, misusing, or misreporting PII, or the improper use, management, or control of PII that poses a significant risk to Exchange operations. Such compliance actions may include suspending access to the Exchange Platform, terminating this Agreement, or suspending this Agreement pending submission of a mitigation plan by Registrant.

In addition, the Exchange may exchange information regarding Registrant and/or Registrant's conduct, such as licensing status or Consumer applications submitted by Registrant, with the SCC's Bureau of Insurance solely for the purpose of ensuring compliance with Virginia law. Any Consumer or Registrant PII provided to or from the Bureau of Insurance shall only be exchanged securely, in conformance with the same data security standards as stated herein, and only for the purpose stated herein. Registrant agrees to cooperate with the Exchange and/or Bureau of Insurance in any investigation of misconduct related to the Exchange or violation of the Virginia Code.

5.2 Termination and Reconsideration

Termination for Cause

5.2.1 Upon the Exchange learning of Registrant's material breach of this Agreement, including, but not limited to, an intentional or grossly negligent

Breach of PII or a violation of Federal or State law, the Exchange shall send notice of the breach to Registrant. The Exchange may provide the opportunity for Registrant to cure the breach within the time specified by the Exchange. If Registrant fails to cure the breach in such time period, the Exchange may terminate the Agreement with no further notice to Registrant.

- a. If Registrant fails to maintain valid insurance licensure, whether a Virginia license or license in Registrant's resident state, Registrant shall immediately notify the Exchange. Failure to maintain valid licensure includes loss of license due to suspension, revocation, voluntary surrender, non-renewal, etc. If Registrant fails to notify the Exchange of a loss of license, but continues to access the Exchange platform, the Exchange may terminate this Agreement with no notice to Registrant.

5.2.2 Notwithstanding paragraph 5.2.1 above, the Exchange may, upon learning of a material breach of this Agreement by Registrant, immediately terminate this Agreement. The Exchange shall send a Notice of Termination to Registrant at the email address attached to Registrant's Exchange account, as well as to Registrant's Exchange platform secure inbox.

Effect of Termination

5.2.3 Effective as of the date of the Notice of Termination, Registrant will no longer be registered with the Exchange, or be permitted to assist with or facilitate enrollment of qualified individuals, qualified employers or qualified employees in coverage, or be permitted to assist individuals in applying for advance payments of the premium tax credit and cost-sharing reductions for QHPs. Upon termination of this Agreement, Registrant shall not access nor utilize the Exchange platform. In addition, Registrant, shall destroy all PII received from the Exchange, or created, maintained, or received by Registrant for the purpose of carrying out the functions contemplated by this Agreement, and shall retain no copies of the PII. If destruction is not possible or until destruction of the PII is completed, Registrant must continue to protect any PII created or received by Registrant during the term of this Agreement. Termination for cause may also affect Registrant's ability to enter into Agreements with the Exchange in future years.

Termination for Convenience

5.2.4 Either party may terminate this Agreement without cause for its convenience upon thirty (30) days written notice to the other party. Registrant must include the intended date of termination in its notice of termination. If a date is not specified, or is not acceptable to the Exchange, the Exchange may set a different date of termination for Registrant.

Duties of Registrant Prior to Termination

5.2.5 In the event of termination for convenience by Registrant, prior to the date of termination, Registrant shall:

- a. Notify applicants, qualified individuals, or enrollees receiving assistance from Registrant of Registrant's intended date of termination;
- b. Continue to assist such individuals with Exchange-related eligibility and enrollment services up until the date of termination; and
- c. Provide such individuals with information about alternatives available for obtaining additional assistance.

Suspension

5.2.6 The Exchange may immediately suspend Registrant's ability to utilize the Exchange platform if the Exchange discovers circumstances that pose unacceptable risk to Exchange operations or Exchange information technology systems, until Registrant's actions, Incident, or Breach is remedied or sufficiently mitigated to the Exchange's satisfaction.

Appeal of Termination

5.2.7 If this Agreement is terminated for cause by the Exchange, Registrant may request reconsideration of the termination. Registrant must make such request in writing, within 30 days of the date of the Notice from the Exchange. The Exchange shall provide a decision regarding reconsideration of the termination within 30 days of receiving the request, and such decision shall be a final determination.

6. General

6.1 Term The Term of this Agreement shall begin upon Registrant's electronic signature of the Agreement and remain in effect until October 31, 2024, unless terminated by either party prior to that date.

6.2 Remedies If the Exchange determines that Registrant has failed to comply with the duties and obligations contained in this Agreement, in addition to any other available remedies, Registrant:

- a. May be denied the right to enter into agreements with the Exchange in future years; and
- b. May be subject to civil money penalties as described in 45 C.F.R. § 155.285 and Va. Code Section 38.2-218.

All remedies in this Agreement conferred upon or reserved to the Exchange are cumulative, and not intended to be exclusive of any other remedies available to the Exchange under operative law and regulation.

6.3 Entire Agreement/Modifications This Agreement represents the entire Agreement between the Exchange and Registrant, and no other agreements, terms, understandings, or representations exist between the Parties. No amendment of this Agreement is valid unless made in a signed writing, executed by the Parties. The Parties agree to amend this Agreement from time to time, as needed to ensure the Parties' compliance with Federal and State law.

6.4 Assignment Registrant shall not assign, subcontract, or delegate all, or any portion of, its rights or obligations under this Agreement, without express, written consent of the Exchange, and any such attempted assignment or subcontracting without such written consent shall be void.

6.5 Disclaimer of Joint Venture Neither this Agreement nor the activities of Registrant contemplated by and under this Agreement shall be deemed or construed to create any partnership, joint venture, or agency relationship. Neither party is, nor shall either party hold itself out to be, vested with any power or right to bind the other party contractually or to act on behalf of the other party. Registrant shall not, under any circumstances, hold itself out as or be considered an agent or employee of the Exchange.

6.6 Indemnification Registrant shall hold the Commonwealth of Virginia and the Exchange harmless from and indemnify the Commonwealth of Virginia and the Exchange against any and all third-party claims and demands and actions based upon or arising out of any activities performed by Registrant, its employees, or agents, under this Agreement.

6.7 Governing Law This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of Virginia. Registrant further agrees and consents to the jurisdiction of the courts of the Commonwealth of Virginia, and any litigation concerning this Agreement shall be brought in the courts of the Commonwealth of Virginia. Nothing in this Agreement shall constitute a waiver by the Commonwealth of Virginia or the Exchange of its sovereign immunity.

6.8 Conflicts of Law Should there be any conflict, ambiguity, or inconsistency between the terms of this Agreement and any statute, regulation or sub-regulatory guidance issued by the federal government or the Commission, Registrant must comply with the statute, regulation, or sub-regulatory guidance.

6.9 Notices All notices required under this Agreement shall be given in writing and delivered as set forth below.

If to the Exchange:

Virginia State Corporation Commission
1300 East Main Street
Richmond, VA 23219
Attention: Christine Houchens
ExchangeAgents@scc.virginia.gov

If to the Registrant:

Notices to Registrant shall be sent to the address and email address provided to the Exchange by Registrant upon registration.

6.9.1 Notices by email shall be sufficient and deemed received upon acknowledgment of receipt by reply email.

6.9.2 Notices sent by hand, by a nationally-recognized overnight courier service, or by U.S. Mail – Certified Delivery, Return Receipt Requested shall also be sufficient and deemed given when received.

6.10 Severability If any term of this Agreement is held to be invalid, illegal, or unenforceable, in whole or in part, such term will, if possible, be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable Law. All remaining terms shall continue to be in full force and effect.

6.11 Counterparts This Agreement may be executed in several counterparts and by facsimile or PDF signature, all of which taken together constitute a single agreement between the Parties. Each signed counterpart, including a signed counterpart reproduced by reliable means (including facsimile and PDF), will be considered as legally effective as an original signature.

6.12 Survival Any provision of this Agreement which contemplates performance or observance after termination or expiration of this Agreement, particularly the use, disclosure, handling or safeguarding of PII, shall survive any termination or expiration of this Agreement and continue in full force and effect, until such time as the PII provided to or created or received by Registrant is destroyed.

AGENT:

Signature of Agent

Date

Printed name of Agent