



# AGENT APPOINTMENT FORM

120 Bishop's Way, Suite 150 Brookfield, WI  
53005-6271  
www.CommonGroundHealthcare.org Broker  
Broker Hotline: 888.870.4717  
Fax: 262.754.9690

**(Please Print or Type)** Sales@CommonGroundHealthcare.org

AGENT INFORMATION			
Last		First	Middle
General Agent/Agency Name		Applicant Email Address (required)	Social Security Number
Work Address		Work Telephone Number	FAX Number
P.O. Box		City	State
			ZIP Code

## ASSIGNMENT OF COMMISSIONS

### Commissions Payable To General Agent/Agency:

General Agency Name	Agency Tax Identification Number
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General Agent Name	Social Security Number
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Address	P.O. Box	City	State	ZIP Code
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## HEALTH LICENSE INFORMATION (ATTACH A COPY)

License Type	State of Issue	License Number	NPN	Issue Date	Expiration Date
Has your insurance license suspended or revoked?		<input type="radio"/> Yes <input type="radio"/> No		Have you ever been convicted of a felony?	
Have you ever been investigated or fined by an Insurance Regulatory Authority?		<input type="radio"/> Yes <input type="radio"/> No		Do you owe any debt/balance to an insurer, general agent, or financial service institution that has remained overdue for more than 60 days?	
				<input type="radio"/> Yes <input type="radio"/> No	

## ERRORS AND OMISSIONS INSURANCE

Name of Carrier (Attach copy of Certificate)	Specific and Aggregate Amounts <small>(Min. \$1 Million each)</small>	Expiration date	Applicant or Agency must be noted on the Certificate.
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## ATTESTATION

The Application information contained herein is true to the best of my knowledge.

Applicant Signature	Date
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Contact No.: \_\_\_\_\_

# BROKER AGREEMENT

**THIS BROKER AGREEMENT** (the “Agreement”) is made by and between **Common Ground Healthcare Cooperative (“CGHC”)**, and the Broker (Broker”) set forth on the signature page of this Agreement. This Agreement is effective as of the date it is signed by both parties, as noted on the signature page hereto (“Effective Date”), and replaces and supersedes any prior agreement between the parties regarding the solicitation and sale of CGHC insurance products and any compensation payable with respect thereto.

**WHEREAS, CGHC** desires to engage the services of Broker for the purpose of marketing and selling the insurance benefit programs (“Programs”) offered by CGHC; and

**WHEREAS,** Broker desires to accept the engagement by CGHC to provide such services in connection with the CGHC Programs;

**NOW, THEREFORE,** for and in consideration of these premises and of the mutual covenants and agreements hereinafter set forth, the Parties hereto agree as follows:

## 1. DEFINITIONS

- a. **Agreement.** For the purposes of this Agreement, “Agreement” shall mean this Broker Agreement, together with the Appointment Application(s).
- b. **Broker.** For the purposes of this Agreement, “Broker” shall mean a broker, agent, brokerage or agency. In the case of a brokerage or agency, the person signing this Agreement represents s/he has authority to contract as a legal representative of the brokerage or agency’s legal entity. In the case of an individual agent or broker, your signature as an individual means that you are signing only on behalf of yourself and not other agents or brokers.
- c. **Programs.** For the purposes of this Agreement, “Programs” shall mean the products offered by CGHC.

## 2. TERRITORY/AUTHORITY.

Broker has the authority and is hereby appointed, pursuant to this Agreement, to market, service and place insurance coverages offered by CGHC, provided that, at all times during this Agreement:

- a. Broker strictly complies with the terms and conditions of this Agreement;
- b. Broker must possess and maintain every license and certification required by law to perform services under this Agreement and with the federal Marketplace. Broker represents and warrants that it is duly licensed to solicit health insurance applications in the State of Wisconsin and that it will maintain all necessary licenses and training, in good standing, at all times during the term of this Agreement. Further, Broker specifically agrees that in advance of any sales or service of CGHC product, Broker has completed the training, registration and signed all required agreements with the federal Marketplace when selling products through the federal Marketplace. Broker must provide proof of licensure to CGHC upon CGHC’s request. Broker must immediately notify CGHC of any expiration, termination, revocation, suspension or any other action by a Department of Insurance or any other governmental agency affecting licenses or certifications required to perform services under this Agreement.

In states that issue renewal licenses, Broker must furnish CGHC with a copy of Broker's renewal license.

- c. This authorization does not assign exclusive territorial rights to the Broker and CGHC may, in its sole discretion, withdraw any or all of the allotted territory by giving Broker thirty (30) days written notice of such change in territory.

3. **DUTIES OF BROKER AND STANDARDS OF CONDUCT.** While providing services hereunder, Broker covenants to CGHC as follows:

- a. Broker shall provide all usual and customary services of an insurance broker and agrees to follow and be governed by the conditions of this Agreement and by the reasonable rules of conduct set forth by CGHC and communicated to Broker from time to time. Broker shall be bound to strictly adhere to the privacy and security standards, and to ensure that its employees, officers, directors, contractors, subcontractors, agents, and representatives strictly adhere to the same, and to create, collect, disclose, access, maintain, store, and use personally identifiable information strictly in accordance with this Agreement and the Business Associate Agreement, which is referenced below and incorporated herein.
- b. Broker shall at all times be an independent contractor and nothing contained in this Agreement shall be construed to create an employer/employee relationship between CGHC and Broker. Broker shall be responsible for all taxes on compensation earned under this Agreement.
- c. Broker will comply at all times with all applicable laws and regulations of the United States and any jurisdiction in which Broker acts, and will have obtained, and shall maintain in good standing, all permits, licenses, certifications and registrations required to comply with such laws and regulations. Broker warrants and represents that the Broker and, if applicable, any employees who intend to transact services pursuant to this Agreement are duly licensed under applicable state law as insurance producers, and Broker agrees to assure that all said licenses are maintained in full force and effect during the term hereof. Broker will perform all services under this Agreement in conformance with all applicable health, safety and environmental statutes, rules and regulations, as well as all applicable state privacy and security laws and regulations. Broker shall notify CGHC promptly if any required permit, license, certification or registration expires or is revoked or any disciplinary action is taken against an applicable permit, license, or registration.
- d. Broker shall not allow unlicensed or unappointed agents to sell its Programs. This includes allowing agents to submit business under the number of another agent, sometimes called "aggregation."
- e. Broker agrees that only the agent who sold, solicited and negotiated the business will submit the individual or group application and the application will include a legible signature and date from the agent that sold, solicited and negotiated the business.
- f. Broker will comply at all times with all applicable CGHC policies, procedural standards, and ethical standards of which Broker has been made aware, including, but not limited to the quoting and binding guidelines established by CGHC. In addition, Broker agrees to actively advise the applicants that CGHC does not accept third party payments of premium for individual health plans except in the limited circumstances specified in the Third Party Payment Policy. Should Broker become aware that any of its customers is paying premium

- through a third parties, either primary payment or through reimbursement, it shall immediately notify CGHC.
- g. Broker agrees that it will not charge, or permit to be charged applicants or insureds, any fees or costs outside of the premium charged by CGHC unless specifically agreed to in advance by CGHC in writing. Broker acknowledges that written agreement by CGHC, does constitute an agreement that such fees are appropriate or legal, just that the Broker has agreed to abide by all state and federal laws in charging those fees. Any practice of collecting such fees from consumers for providing assistance with QHP or other plan selection and enrollment is be subject to applicable state and federal law, including that agents, brokers, and web-brokers that elect to pass on these types of costs to consumers must provide a disclaimer to consumers that: 1) clearly discloses the amount and reason for the fee, and 2) informs the consumer that he/she can apply through the FFM website (Healthcare.gov) at no additional cost.
  - h. Broker is legally authorized to engage in business in the United States and will provide satisfactory evidence of such authority upon request.
  - i. Broker certifies that neither it nor any of its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded by any federal agency, or any department, agency or political subdivision of a State. Broker shall notify CGHC promptly if any of the above events occur or any disciplinary action is taken against Broker or a principal.
  - j. Broker will honor any legal obligation which it may have with respect to proprietary information obtained as a result of prior engagements or employment by any other person or organization. Broker warrants that entering into this Agreement and performing this Agreement shall not be in breach or violation of any agreement with any other person or organization.
  - k. Broker warrants that s/he has reviewed Exhibit 3 to this Agreement which is the background questionnaire of the Wisconsin Office of the Commissioner of Insurance. Broker warrants that neither s/he, nor anyone in his/her employ would be required to answer in the affirmative for any of the Application Background Questions. Broker warrants that should Broker become aware of facts and circumstances such that a yes answer would be required in the future, Broker will immediately inform CGHC.
  - l. Broker shall have an employee background check policy acceptable to CGHC. Such policy and procedures shall be provided to CGHC, upon request. Broker hereby certifies that none of its employees, agents or representatives who have been convicted of a crime involving dishonesty or breach of trust or a felony involving intentional physical injury or illegal selling or distributing of drugs will be permitted to participate in any type of business arrangement or relationship with or on behalf of CGHC. In addition, to the extent allowed by applicable law, Broker agrees to notify CGHC in writing of such crimes committed by himself or herself and/or any of its employees, agents or representatives working with or on behalf of CGHC within thirty (30) days of conviction and shall immediately prohibit such person from participating in any type of business arrangement or relationship with or on behalf of CGHC. CGHC shall have the right to request an updated written certification at any time.
  - m. Broker warrants that it has a program in place to protect against and identify fraud (“Fraud Program”), in accordance with customary industry practice. Broker’s Fraud Program shall

- include, at a minimum, actions taken by Broker to prevent fraudulent claims from being paid and to investigate any suspected fraud perpetrated against Broker or CGHC. Broker shall investigate and pursue appropriate remedial action, and shall report fraud to appropriate regulatory authorities, where required. Upon identifying any fraudulent action that impacts CGHC, Broker shall give written notice to CGHC within two (2) business days, with sufficient detail as required by CGHC. Broker shall provide CGHC with a report regarding Broker's Fraud Program in a manner and at the frequency required by CGHC. Broker's Fraud Program shall be provided to CGHC upon request.
- n. Broker represents and warrants that, as of the effective date of this Agreement, neither Broker, nor any of Broker's employees who will be providing services for CGHC or who may have access to confidential or proprietary information of CGHC has any actual, potential or perceived conflict of interest as it relates to the performance of Services under this Agreement. If Broker is aware, or becomes aware during the term of this Agreement, of any actual, potential or perceived conflict of interest, Broker shall, within in 3 business days, notify CGHC of the actual, potential or perceived conflict of interest. If Broker discloses a conflict of interest to CGHC or CGHC becomes aware of a conflict, CGHC may, in its sole discretion, and in addition to any other remedy available in law or in equity, choose to: (i) immediately terminate this Agreement, (ii) require Broker to take any action reasonably required by CGHC to resolve the conflict of interest, or (iii) knowingly waive the conflict of interest in writing.
  - o. Broker shall present to consumers all CGHC products and services, including as they relate to the Federally-facilitated Marketplace, only in a factually accurate manner, without omission of material fact, and refrain from marketing or conduct that is misleading, coercive, or discriminates on race, color, national origin, disability, age, sex, gender identity or sexual orientation. Broker shall provide CGHC and the Federally-facilitated Marketplace with correct information as required by law.
  - p. Broker must obtain informed consent from any individual, employer or employee prior to assisting with or facilitating enrollment through a Federally-facilitated Marketplace, or assisting the individual in applying for advance payment of the premium tax credit and cost sharing reductions that may be available. Such consent must be subject to a right of revocation. Any such consent that serves as the basis of a use or disclosure must:
    - i. Be provided in specific terms and in plain language;
    - ii. Identify the entity collecting or using personally identifiable information (PII), and/or making the disclosure;
    - iii. Identify the specific collections, uses, and disclosures of specified PII with respect to specific recipients;
    - iv. Provide notice of an individual's ability to revoke the consent at any time.
    - v. Consent documents must be appropriately secured and retained for 10 years.
  - q. Broker specifically acknowledges that it is Broker's responsibility to know and comply with the applicable federal and state laws and regulations related to the contacting of potential applicants, including but not limited to Do Not Call, Do Not Fax, Can Spam and use of an auto dialer and use of prerecorded messages. Broker also shall require Broker's employees and subcontractors who are providing services related to this Agreement to know and comply

with such laws. Neither Broker nor Broker's employees may represent themselves as other than an independent contractor of CGHC, unless expressly authorized in writing by CGHC.

- r. Broker agrees that Broker has reviewed, understands and agrees to abide by the Business Associate Agreement attached as Exhibit B to this Agreement. Broker further agrees that such Exhibit is incorporated herein by reference as if fully set forth.

**4. LIMITATIONS ON AUTHORITY OF BROKER.**

- a. Broker shall have no authority to change, omit, add to, or waive any questions, statement or answer on any application for coverage, and shall have no authority to change, omit, add to, waive or discharge any provision of any policy of insurance issued through CGHC.
- b. Broker shall have no authority to extend time of premium payments, quote rates other than those published and or quoted by CGHC, or to obligate or bind Common Ground Health Care Cooperative in any way not specifically authorized by this Agreement or specifically authorized in writing by an officer of CGHC.
- c. Broker shall have no authority to print, publish, issue, circulate or use any advertisement, proposal, promotional item or similar items unless such material and the proposed manner of use have first been approved in writing by CGHC.
- d. Broker shall have no authority to place insurance coverages through CGHC for clients of other brokers or sub-brokers.
- e. Broker is expressly forbidden from paying or offering to pay, any rebate of premium, either directly or indirectly. This includes the transfer of any item of value that is greater than de minimum to an applicant or insured.
- f. Broker shall not, without prior written approval, collect any monies due or to become due CGHC other than any initial first premium obtained by Broker at the time of policy delivery.

- 5. **CHANGE OF POLICY AND TERRITORY.** CGHC may, in its sole discretion and without incurring liability to Broker, retire from any territory or discontinue or withdraw any insurance products in Broker's assigned territory. Broker further acknowledges that any such retirement or discontinuation shall in no way affect the rights of CGHC to continue the marketing of said insurance products in any territories which may or may not be assigned to Broker.

**6. COMPENSATION.**

- a. CGHC will pay Broker commissions at the rates and at the times specified in the attached Exhibit A. The commissions set forth on Exhibit A shall constitute the sole, exclusive, and full compensation of Broker by CGHC for the sale of insurance coverages upon applications obtained through Broker. Commission is not due until the Broker sells at least one policy to an individual or employer other than himself, herself or any of its employees, agents or representatives.
- b. Commissions will generally be paid on or before the first day of the calendar month that is at least thirty (30) days beyond the previous month's "paid-to" date of the respective individual or group premium payment. Payment and adjustment of commissions is in the sole discretion of CGHC.
- c. Unless recovered earlier by CGHC in accordance with its rights set forth in Section 5(d) below, Broker agrees to return within thirty (30) days, following notice of demand from CGHC, any

- commission which have been paid to Broker on any premiums which are refunded to the policy holder for any reason, or for which the policy holder receives credit, or which are uncollectible, regardless if such commissions are paid before or after the termination of this Agreement.
- d. In the event a broker solicits, enrolls, services or otherwise engages Groups and/or Individuals who receive coverage through the Federally-Facilitated Marketplace (or similar entity), broker agrees that provisions granted to brokers by this Agreement may be revoked by CGHC or the Department of Health and Human Services (or "HHS") in instances where CGHC or HHS determines that the broker has not performed satisfactorily or has not properly received Marketplace certification;
  - e. Any debt or liability of Broker to CGHC, including any debt or liability arising from overpayments or underpayments to Broker, may be offset against sums otherwise due or becoming due to Broker under this Agreement.
  - f. CGHC strictly prohibits the assignment to any other party of commissions payable to Broker by CGHC. CGHC shall not be bound by any assignment of commissions by Broker.
  - g. CGHC shall not be responsible for any expenses incurred by Broker, whether on its own behalf or on behalf of CGHC.
  - h. Beginning one year from the effective date of this Agreement, if a monthly commission payment due to Broker is less than \$40.00 CGHC may, at its own discretion, withhold payment of commissions and accrue this payment until such time as accrued and earned commissions exceed \$40.00 at which time all such accrued and earned commissions shall be paid to Broker.
  - i. CGHC shall have the right, at its discretion, to change at any time its Compensation schedules and bonus programs for any reason whatsoever, including to ensure compliance with the requirements of state or federal laws.
  - j. Broker shall be responsible for all taxes on commissions earned under this Agreement. Broker shall be responsible for providing all insurance or other coverages that may be required by law in order for Broker, or for any of its employees or contractors, to provide the services contemplated by this Agreement.
  - k. Commissions on Hold. CGHC may, at its discretion, place compensation of Broker on hold, if based on Broker's information on file with CGHC, Broker no longer complies with the terms of this Agreement, including, but not limited to, Broker's failure to comply with federal registration and other requirements to demonstrate good faith compliance with federal requirements. Broker agrees to forfeit any compensation placed on hold, if the cause of such hold has not been resolved within six (6) months of the hold's effective date, as indicated on a hold notification letter or commissions statement.
7. **LIENS.** CGHC shall have a first lien on all compensation payable under this Agreement for any debt due CGHC from the Broker. CGHC may at any time deduct from any monies due the Broker under this contract, or from any other source, any debt or debts due CGHC, from Broker.
8. **RELATIONSHIP TO GENERAL AGENTS.** Broker acknowledges the right to submit applications for coverage by CGHC with any duly appointed general agent or directly with CGHC. Broker will be associated only with applications on which its name and identification number are affixed to the applications for coverage. Broker is solely responsible for assuring that its name and identification number are affixed to the applications. In all cases where the Broker's claim to commission is

disputed or is otherwise questionable, CGHC shall have the right to decide and settle the dispute. The decision of CGHC shall be binding and conclusive.

**9. BOOKS AND RECORDS; AUDIT**

Broker acknowledges that CGHC is party to that certain Executed Loan Agreement with the Centers for Medicare and Medicaid Services dated February 17, 2012 (the “Loan Agreement”) and that under the terms of the Loan Agreement, any contracted entities performing services for or on behalf of CGHC must agree to certain provisions related to records retention and audit thereof. Therefore, Broker agrees to the following:

- a. To maintain and give the U.S. Department of Health and Human Services, the Comptroller General, the HHS Office of Inspector General, or their designees access to all books, contracts, records, documents, and other evidence related to any of Broker’s scope of services for CGHC in a manner sufficient to enable the audit, evaluation, or inspection of CGHC’s compliance with the terms of the Loan Agreement.
- b. To maintain such books, contracts, records, documents and other evidence related to CGHC for ten (10) years from the date that the record is created, unless CGHC notifies Broker, pursuant to HHS notice regarding the same, that there is a special need to retain a particular record or group of records for a longer period; OR there has been a termination, dispute, or allegation of fraud or similar fault committed by CGHC or Broker, in which case, upon notice by CGHC to Broker, Broker must retain records for an additional six (6) years from the date of any resulting final resolution of the termination, dispute, or allegation of fraud or similar fault.
- c. Broker at its option, will maintain all or any portion of the records at the end of the ten (10) year period. To the extent that Broker decides not to maintain all or a portion of the records at the end of the ten (10) year period, Broker shall notify CGHC and CGHC may either take possession of the records from Broker and maintain the records in accordance with the Loan Agreement or request that Broker maintain the records and such cost to maintain the records will be billed to the CGHC.

**10. EXCLUSION FROM FEDERAL PROGRAMS.** Broker represents and warrants that neither Broker, nor any of its employees, contractors, or subcontractors providing services under this Agreement have been excluded or disbarred from Medicare, Medicaid, or any other federal program. Broker further agrees to conduct periodic screening to ensure the same throughout the term of this Agreement. At any point that Broker or any of its employees, contractors, or subcontractors providing services under this Agreement becomes disbarred from Medicare, Medicaid, or any other federal program this Agreement may be terminated effective immediately and, notwithstanding anything to the contrary, all payments will cease as of the effective date of the disbarment.

**11. DISPUTE RESOLUTION/ARBITRATION.** It is anticipated that any disagreements, which may arise, will be resolved between the parties by good faith negotiations. The parties agree to work together in good faith to resolve any disputes arising under this Agreement. If after at least ninety



(90) days following receipt of written notice of the dispute such dispute has not been resolved to the satisfaction of both parties, either party may invoke the dispute arbitration mechanism as follows: All disputes arising out of or in connection with the terms and conditions of this Agreement shall be settled solely by binding arbitration before a single arbitrator. Arbitration shall be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association, unless CGHC and Broker agree, in writing, to use of an alternate dispute resolution process. The decision and award of the arbitrator shall be final and binding upon the parties, and judgment may be entered on the award in any court of competent jurisdiction.

12. **ENTIRE AGREEMENT.** This Agreement, including the Exhibits and any Addendums constitutes the entire agreement between the parties and supersedes any prior agreement, oral or written, between the parties concerning the subject matter of this Agreement. Any modification to the terms and conditions hereof must be made in writing and signed by the parties. Notwithstanding the foregoing, CGHC specifically reserves the right to modify, in writing, the commission structure set forth on Exhibit A as to new business written by Broker. If CGHC proposes an amendment to bring it or Broker into compliance with an applicable law or regulation (including an interpretation of law by a regulatory agency or court), the amendment is effective immediately upon notice to Broker, or upon any other date specified by CGHC in the written notice to Broker.
13. **TRANSFERABILITY.** The right to market CGHC plans and to receive compensation on business with which the Broker is associated may not be transferred or assigned by Broker without the prior written approval of CGHC. In the instance of a licensed broker leaving an agency, the commission will remain with the agency unless both the broker and agency agree in writing to an alternative arrangement.
14. **INSURANCE.** Broker shall maintain Errors and Omissions Coverage in an amount not less than One Million and no/100 Dollars (U.S. \$1,000,000.00) issued by a carrier acceptable to CGHC, covering any loss as the result of any errors or omissions made by Broker or its agents and subagents, if any, in the course of the performance of their services, duties, responsibilities, and/or obligations hereunder. Broker shall provide written proof of such insurance upon request.
15. **INDEMNIFICATION.** Broker shall indemnify, defend and hold CGHC and its directors, officers, and employees, harmless from and against any and all claims, suits, demands, liabilities, costs, penalties, damages and expenses whatsoever, including attorney's fees, arising from or related in any way to: (i) any and all services rendered hereunder by Broker, its employees, agents, or independent contractors, or any omission with respect to such services; (ii) any unauthorized warranties made by Broker, its employees, agents, or independent contractors with respect to any of CGHC's products, whether express or implied; (iii) any breach by Broker, its employees, agents, or independent contractors of their agreements, obligations, representations and warranties hereunder; and (iv) any violation by Broker, its employees, agents, or independent contractors of federal, state or local laws or regulations or other requirements.
16. **TERM AND TERMINATION.** This Agreement shall be effective as of the date of execution by both parties hereto and shall continue in effect until terminated by either party as follows:

- a. **Termination without Cause:**

(i) This Agreement may be terminated by either party with or without cause, upon not less than thirty (30) days written notice, unless earlier terminated as hereinafter provided.

(ii) If this Agreement is terminated by CGHC without cause, Broker shall be entitled to commissions (subject to the provisions of Section 5 above) only from those revenues derived and contracted for prior to termination, and those commissions shall be continuing after termination for the remainder of then current policy period, subject to any agent of record change or designation.

**b. Termination for Cause:** CGHC may immediately terminate this Agreement for cause upon written notice to the Broker, at its last known address, for any of the following reasons:

(i) if the Broker fails to comply with the CGHC requirements or the applicable state law or any applicable Federal law;

(ii) upon unauthorized disclosure by Broker of the compensation schedule to any outside parties, unless otherwise required to do so by law;

(iii) failure of Broker to maintain insurance requirements as set forth in Section 13 of this Agreement;

(iv) if Broker does not have, or fails to maintain, a license required to perform services or receive compensation under this Agreement (including if Broker's license is revoked by a licensing or regulatory agency). It shall be considered a material breach of this Agreement by Broker and this Agreement shall be terminated effective as of the date that Broker first lost, or failed to maintain, the license without regard to when CGHC learns of the loss of, or failure to maintain, the license or when CGHC notifies Broker that this Agreement has been terminated. CGHC may recover any compensation paid to Broker after Broker loses or fails to maintain any such license;

(v) upon Broker's dissolution, receivership, insolvency, or bankruptcy;

(vi) if Broker breaches a term of this Agreement, CGHC may terminate this Agreement immediately by notifying Broker in writing of the effective date of termination. The effective date of termination pursuant to this Section may be the date of the breach, or any later date that CGHC specifies in the notice of termination;

(vii) if a licensing or regulatory agency subjects Broker to any disciplinary sanction (for example, a reprimand or temporary suspension of Broker's license), CGHC may terminate the Agreement by providing written notice to Broker effective upon receipt of the notice, or any later date that CGHC specifies in the notice. No compensation will be payable to Broker for services rendered during any period in which Broker's license is temporarily suspended. CGHC may recover any compensation paid to Broker during any period in which Broker's license is temporarily suspended;

(viii) if Broker engages in, or knowingly assists another to commit, fraudulent or dishonest activity in connection with the solicitation, enrollment or renewal of any customer, whether a customer of CGHC or not, this Agreement shall terminate effective as of the date on which Broker engaged in or assisted with such activity without regard to when CGHC learns of the fraudulent or dishonest activity or when CGHC notifies Broker that this Agreement has been terminated. CGHC may recover any compensation paid to Broker after Broker engaged in, or

knowingly assisted another to commit, the fraudulent or dishonest act without regard to when Broker actually earned such compensation;

(ix) if Broker is disbarred under the Exclusion from Federal Programs section.

c. If Broker is terminated for cause, no compensation will be due the Broker subsequent to the date of such termination for cause.

d. if this Agreement is terminated, Broker must immediately cease and will no longer be authorized to assist in any sales or enrollment; however, Broker's obligations to protect the security and privacy of personally identifiable information shall survive.

**16. WAIVER.** Failure of CGHC to enforce compliance with the terms and conditions of this Agreement shall not be construed as a waiver of the right to exercise the same at any time.

**17. SEVERABILITY.** In the event that any term or condition of this Agreement is determined to be invalid or unenforceable by a Court of competent jurisdiction, such term or condition shall be severed from this Agreement and the remaining terms and conditions shall be given their full force and effect.

**18. JURISDICTION.** This Agreement shall be construed in accordance with the laws of the State of Wisconsin.

**19. REGULATORY COMPLIANCE.**

a. Broker agrees to comply with all statutes, regulations and requirements now or hereafter in force and effect of all municipal, county, state and federal authorities, to the extent that they directly or indirectly bear upon the subject matter of this Agreement. Broker acknowledges and agrees that its compliance obligation includes, without limitation, the Federal Health Insurance Portability and Accountability Act of 1996 and its implementing regulations promulgated thereunder, (45 C.F.R. Parts 160-164) ("HIPAA"), each as amended from time to time, and sets forth standards for protecting individually identifiable health information.

b. Broker agrees to comply with standards of subpart C of 45 CFR § 156, with respect to each of Plans QHPs on an ongoing basis; exchange processes, procedures, and standards in accordance with subparts H and K of 45 CFR § 155 and, in the small group market, 45 CFR § 155.705; standards of 45 CFR § 155.220 with respect to assisting with enrollment in QHPs; and standards of 45 CFR §§ 156.705 and 156.715 for maintenance of records and compliance reviews for QHP issuers operating in a Federally-facilitated Exchange or FF-SHOP.

c. Broker agrees the terms and obligations of the "Privacy and Security Standards and Implementation Specifications for Non-Marketplace Entities" set forth and adopted in 45 CFR 155.260 and Appendix A of the "Agreement Between Agent or Broker and CMS for the Federally-facilitated Marketplace Individual Market", are also incorporated by reference herein as part of Broker's compliance obligations. Pursuant to HIPAA, CGHC is a "Covered Entity" and is required to enter into Business Associate Agreements with all of its contractors, agents and related and unrelated third parties that perform a function or activity on behalf of such Covered Entity that involves individually identifiable health information. As a condition of this Agreement, Broker agrees to abide by as if fully incorporated herein CGHC's standard Business Associate Agreement, which is attached as Exhibit B, governing among other items, the use and disclosure of "Protected Health Information" as defined by HIPAA. All parties acknowledge and agree that any provision that is required to be in this Agreement by such

statutes, regulations and requirements but is not expressly set forth herein shall be incorporated by this reference and shall bind both parties. At CGHC's sole discretion, CGHC may require Broker to execute an amendment to this Agreement to expressly include any such provision.

**20. NOTICE.** Any notice required or permitted under this Agreement shall be given in writing, to the other party, by hand, via facsimile, email, or via Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

<b>Common Ground Healthcare Cooperative</b>	<b>Broker / Agency Name:</b>
<b>Attn: Sales Department</b>	<b>Contact Name:</b>
<b>120 Bishop's Way, Suite 150</b>	<b>Address:</b>
<b>Brookfield, WI 53005-6271</b>	<b>City/State/Zip</b>
<b>Email: sales@commongroundhealthcare.org</b>	<b>Email:</b>
<b>Facsimile: (262) 754-9690</b>	<b>Facsimile:</b>

Notice shall be deemed given on the date delivered by hand, email, or via facsimile. If mailed, Notice shall be deemed given on the earlier of the date the Return Receipt is signed or three (3) days after Notice is deposited in the U.S. Mail.

**21. AMENDMENT.** This Agreement may be amended by mutual written agreement of the parties. This Agreement may also be amended by CGHC upon a 30 day written notice.

**22. MARKETING**

- a. To the extent allowed by law, Broker will market the CGHC Products to individuals and groups.
- b. Broker acknowledges and agrees that it will perform all services hereunder in accordance with the highest ethical standards relating to broker services including, without limitation, being fully familiar with the CGHC products and related guidelines.
- c. Any and all marketing materials, including solicitation letters, brochures, and magazine or news articles concerning the CGHC products prepared by Broker shall be approved in writing by CGHC before such materials are distributed. Unless otherwise agreed to by the Parties, the costs of preparation and distribution of such materials shall be borne by the Party preparing them.
- d. Common Ground Healthcare Cooperative does not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, sexual orientation, or health status in the administration of the plan, including enrollment and benefit determinations. Broker shall refrain from providing any marketing or conduct that is misleading or coercive, or discriminates based on race, color, national origin, disability, age, sex, gender identity, or sexual orientation.

- e. Broker shall not employ or make use of any advertisement or material in which CGHC's name and/or corporate symbols are contained without the prior express written consent of CGHC. Upon termination of this Agreement, Broker shall cease to use CGHC's name, symbol, trademarks, service marks and/or any other proprietary designation in any of its activities and shall promptly return to CGHC all documents, materials, forms and items furnished in connection with this Agreement and the marketing and sale of CGHC Products, with the exception of records that must be maintained by Broker pursuant to applicable law or regulation.
- f. Brokers are prohibited from advertising company products on websites without prior written consent by CGHC.

**The parties hereby agree on the terms and conditions of this Agreement. In addition, each party hereby certifies that it has not modified, changed or altered, in any way, any provision of this Agreement prior to the execution hereof.**

**For Common Ground Healthcare Cooperative:**

**For Broker/Agency Name:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
SSN/TIN

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Exhibit A

### Commission Schedules

#### Individual and Group Business

##### **New Business:**

Commission schedule for Individual and Group sales on or off the Marketplace is:

**Individual Sales Per Member Per Month (PMPM):** **\$20.00 PMPM**  
(applies to all new members sold with effective dates of 1/1/2021 or after).

**Group Sales:**  
**2–50 Enrolled Employees/Per Employee Per Month (PEPM):** **\$25.00 PEPM**

##### **Renewal Business:**

Commission Schedule for Individual and Group renewal business on or off the Marketplace is:

For Individual Policies written with original effective dates prior to 1/1/2021:

**Individual Sales Per Contract Per Month (PCPM):** **\$20.00 PCPM**

For Individual members written with an original effective date of 1/1/2021 or after:

**Individual Sales Per Member Per Month (PMPM):** **\$20.00 PMPM**

**Group Sales:**  
**2 – 50 Enrolled Employees/Per Employee Per Month (PEPM)** **\$25.00 PEPM**

*\*\*Please note that Common Ground Healthcare Cooperative will review the commission, bonus and special incentive program (if applicable) on an annual basis. All changes are at Common Ground Healthcare Cooperative's discretion and will be communicated prior to implementation.*

## Exhibit B

### Business Associate Agreement

This HIPAA Business Associate Agreement (the "Agreement") is made by and between COMMON GROUND HEALTHCARE COOPERATIVE, a not for profit Wisconsin cooperative ("Covered Entity"), and BROKER, as that term is defined in the Broker Agreement ("Business Associate") (each a "Party" and collectively the "Parties"). The purpose of this Agreement is to set forth the terms and conditions of disclosure of Protected Health Information ("PHI") by Covered Entity to Business Associate, to set forth the terms and conditions of Business Associate's use and disclosure of PHI, and to ensure the confidentiality, integrity and availability of Electronic Protected Health Information ("E PHI") that Business Associate creates, receives, maintains or transmits on behalf of Covered Entity. It is the intent of Covered Entity and Business Associate that this Agreement will meet the requirements of the Privacy Rule and the Security Rule.

#### 1. BACKGROUND

Business Associate performs functions, activities or services for, or on behalf of Covered Entity and Business Associate receives, has access to or creates Protected Health Information ("PHI"), including Electronic Protected Health Information ("E PHI") (defined below), in order to perform such functions, activities or services. Covered Entity is obligated under Title II, Subtitle F ("Administrative Simplification") of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d et seq.) ("HIPAA") and regulations promulgated to ensure that Business Associate uses, discloses and protects PHI and E PHI consistent with the requirements of the Privacy, Security, and Omnibus Rules (defined below) and as outlined in this Agreement. Business Associate acknowledges that with the enactment of the American Recovery and Reinvestment Act of 2009, Title XIII, Subtitle D (Pub. L. No 111-5 (2009)) ("HITECH"), certain provisions of HIPAA were amended in a way that directly impacts and regulates the Business Associate's responsibilities, obligations, and activities under the Privacy and Security Rules. Business Associate acknowledges and agrees that it must comply with all HITECH provisions related to the activities of Business Associate including, but not limited to, HITECH Sections

13401, 13402, 13404, and 13405 and any regulations promulgated thereunder, including the Final Rule at 78 Federal Register 17, Part II (2013) (hereafter the "Omnibus Rule").

## 2. DEFINITIONS

Terms used, but not otherwise defined, in this Agreement shall have the same meaning as those terms in the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") Privacy Rule and Security Rule. 45 CFR Parts 160 and 164. Following are some of the key terms of this Agreement.

2.1 *ARRA*. "ARRA" shall mean the American Recovery and Reinvestment Act of 2009, Public Law 111-5.

2.2 *Designated Record Set*. "Designated Record Set" shall have the same meaning as the term "designated record set" in 45 C.F.R. § 164.501.

2.2 *Electronic Protected Health Information*. "Electronic Protected Health Information" or "EPHI" shall have the same meaning as the term "electronic protected health information" in 45 CFR § 160.103, but shall be limited to the EPHI that Business Associate creates, receives, maintains, or transmits on behalf of Covered Entity.

2.3 *Individual*. "Individual" shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).

2.4 *Limited Data Set*. "Limited Data Set" shall have the same meaning as a "limited data set" described in 45 CFR § 164.514(e)(2).

2.5 *Minimum Necessary*. "Minimum Necessary" shall have the same meaning as "minimum necessary" described in 45 CFR § 164.502(b).

2.6 *Privacy Rule*. "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR Parts 160 and Part 164, subparts A and E.

2.7 *Protected Health Information*. "Protected Health Information" or "PHI" shall have the same meaning as the term "protected health information" in 45 CFR § 160.103, but shall be limited to the information created or received by Business Associate from or on behalf of Covered Entity.

2.8 *2.8 Required By Law*. "Required By Law" shall have the same meaning as the term "required by law" in 45 CFR § 164.103.



2.9 *Secretary*. “Secretary” shall mean the Secretary of the United States Department of Health and Human Services or his designee.

2.10 *Security Incident*. “Security Incident” shall have the same meaning as “security incident” in 45 CFR § 164.304.

2.11 *Security Rule*. “Security Rule” shall mean the Security Standards for the Protection of EPHI at 45 CFR Parts 160 and 164, subparts A and C and any subsequent amendments including, but not limited to, the Omnibus Rule.

### 3. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

3.1 *Use and Disclosure*. Business Associate agrees to not use or disclose PHI other than as permitted or required by this Agreement or as Required By Law. Business Associate shall not at any time access any PHI for any purpose other than those specifically authorized by Covered Entity or Required by Law. Business Associate shall also comply, where applicable, with 45 CFR Part 164 Subpart C with respect to EPHI, and the use and disclosure provisions of the Privacy Rule.

3.2 *Safeguards*. Business Associate agrees:

- (a) To use reasonable and appropriate safeguards to maintain the privacy and security of PHI and to prevent unauthorized use, disclosure, damage or destruction of PHI.
- (b) To develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to reasonably and appropriately protect the confidentiality, integrity, and availability of EPHI that Business Associate creates, receives, maintains or transmits on behalf of Covered Entity. Such administrative, technical, and physical safeguards must meet the requirements outlined at 45 CFR Part 164 Subpart C. Business Associate shall document and keep these security measures current in accordance with 45 CFR § 164.316.
- (c) That it is obligated by law to meet the provisions of ARRA that are applicable to business associates.
- (d) To encrypt Covered Entity's EPHI prior to saving it on portable media and while in transit. In other circumstances, Business Associate shall encrypt Covered Entity's EPHI whenever reasonable practicable.

3.3 *Mitigation*. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate in violation of the requirements of this Agreement.

3.4 *Reports of Non-Permitted Use or Disclosure*. Business Associate agrees to

promptly report to Covered Entity any use or disclosure of the PHI by Business Associate, its employees, representatives, agents or subcontractors that is not specifically provided for by this Agreement. Where applicable, such report shall comply with the requirements outlined in Sections 3.5 and 3.12.

3.5 *Reports of Security Incidents.* Business Associate agrees to promptly report to Covered Entity any Security Incident by Business Associate, its employees, representatives, agents or subcontractors of which it becomes aware or discovers has occurred to Business Associate or its agents or subcontractors. Where applicable, such report shall comply with the requirements outlined in Sections 3.4 and 3.12.

3.6 *Agents and Subcontractors.* Business Associate agrees to ensure that any agent, including a subcontractor, that creates, receives, maintains, or transmits PHI (including EPHI) on behalf of the Business Associate agrees to the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information, including but not limited to, compliance with the applicable requirements of 45 CFR Parts 160 and 164. Such agreement between Business Associate and the agent must be made in writing and must comply with the terms of this Agreement and the requirements outlined in 45 CFR §§ 164.504(e) and 164.314.

3.7 *Designated Record Set.*

- (a) If Business Associate has PHI in a Designated Record Set, Business Associate agrees to provide access, at the request of Covered Entity, to PHI in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 CFR § 164.524. If Business Associate uses or maintains an electronic health record with respect to PHI of an Individual, Business Associate agrees to provide a copy of such information in an electronic format and to transmit such copy to an entity or person designated by Covered Entity. Any fee for providing a copy of such information in electronic form shall not be greater than Business Associate's labor costs in responding to the request for the copy.
- (b) Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set that Covered Entity directs or agrees to pursuant to 45 CFR § 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

3.8 *Internal Practices.*

- (a) Business Associate agrees to make internal practices, books, and records, including policies and procedures, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary, in a time and manner selected by Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the

Privacy Rule.

- (b) Business Associate agrees to make internal practices, books, and records, including policies and procedures, relating to the security of EPHI created, received, maintained, or transmitted by Business Associate on behalf of, Covered Entity available to Covered Entity, or to the Secretary, in a time and manner selected by Covered Entity or designated by the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Security Rule.
- (c) Business Associate shall have an annual HIPAA compliance audit conducted by an independent third party auditor and provide the results of such audit to Covered Entity. In the event of a Breach affecting Covered Entity, Business Associate shall promptly remediate the issue. Once the issue is remediated Business Associate shall conduct an additional audit which shall be shared with Covered Entity at Covered Entity's request as confirmation the issue causing the Breach was remediated.

### 3.9 *Documentation of Disclosures.*

- (a) Business Associate agrees to document such disclosures of PHI and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. Beginning on the effective date of Section 13405(c) of ARRA, if Business Associate uses or maintains an electronic health record with respect to PHI, Business Associate agrees to document disclosures made through an electronic health record for treatment, payment, or health care operations, and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures in accordance with 45 C.F.R. § 164.528.
- (b) Business Associate agrees to provide to Covered Entity or an Individual information collected in accordance with Section 3.9(a) of this Agreement, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR § 164.528. If any individual directly requests that Business Associate or its subcontractors provide an accounting of disclosures of PHI, Business Associate or its subcontractors shall notify Covered Entity within ten (10) days of such request.

### 3.10 *Prohibition on the Sale of PHI or Electronic Health Records.* Business Associate

shall comply with 45 CFR § 164.502(a)(5), which relates to the prohibition on the sale of electronic health records and PHI.

3.11 *Conditions on Certain Marketing and Fundraising Contacts.* Business Associate shall not use or disclose PHI for marketing or fundraising without consent of Covered Entity and only to the extent permitted by 45 CFR §§ 164.508(a)(3) and 164.514(f).

3.12 *Business Associate's Obligations Related to Breach of Unsecured PHI.* (a) Upon any breach, Business Associate shall evaluate whether such breach is a "Breach" requiring notice under HIPAA's Privacy Rule or Security Rule. Following Business Associate's discovery of a Breach of Unsecured Protected Health Information (Unsecured PHI) in Business Associate's control, as both terms are defined in 45 CFR § 164.402, Business Associate shall:

- (i) notify Covered Entity of such Breach and any security incident as soon as practicable in accordance with 45 CFR § 164.410;
- (ii) on behalf of Covered Entity, notify each individual whose Unsecured PHI has been, or is reasonably believed by the Covered Entity to have been, Breached, of such Breach in accordance with 45 CFR § 164.404;
- (iii) on behalf of Covered Entity, provide any notice to the media that is required in accordance with 45 CFR § 164.406; and
- (iv) on behalf of Covered Entity, provide any notice to the Secretary of the Department of Health and Human Services that is required in accordance with 45 CFR § 164.408.

Breaches shall be treated as discovered by Business Associate in accordance with 45 CFR § 164.410(a)(2). Any notices to be provided by Business Associate, on behalf of Covered Entity, under this Section 3.12, shall be subject to the advance, written approval of Covered Entity, which approval shall not unreasonably be withheld, and shall comply with 3.12(b).

- (b) Following the discovery of a Breach of Unsecured PHI, Business Associate shall notify Covered Entity of the Breach. The initial report of any Breach of Unsecured PHI shall be made by telephone call to Covered Entity's Chief Executive Officer within forty-eight (48) hours from the time that Business Associate becomes aware of the Breach, followed by a written report no later than five (5) calendar days after its discovery. Business Associate's notice shall include, to the extent possible, the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used, or disclosed during or as

a result of the Breach. Business Associate shall also provide Covered Entity with at least the following information: a description of the Breach, including the date of Breach and the date of discovery of the Breach, if known; a description of the types of Unsecured PHI involved in the Breach; any steps Individuals should take to protect themselves from potential harm resulting from the Breach; a brief description of what Business Associate is doing to investigate the Breach, to mitigate harm to Individuals, and to protect against any further Breaches; and any other information requested by Covered Entity related to the Breach. Business Associate shall promptly supplement such notice with additional information as it becomes available, even if such information becomes available after Individuals have been notified of the Breach.

(c) Business Associate agrees to cooperate with Covered Entity in the investigation of a Breach of Unsecured PHI and to cooperate with and participate in, to the extent requested by Covered Entity, the notification of Individuals, the media, and the Secretary of any Breach of Unsecured PHI.

(d) In the event that: (i) a Breach of Unsecured PHI occurs because of the action or inaction of Business Associate, its employees, agents, representatives, or subcontractors; or (ii) a Breach occurs involving Unsecured PHI in Business Associate's possession, or PHI created, maintained, transmitted, or received by Business Associate or its employees, agents, representatives, or subcontractors, Business Associate agrees that Covered Entity may, in its sole discretion, require Business Associate to provide such notification as may be required of Covered Entity by 45 CFR §§164.404, 164.406, and 164.408. Covered Entity shall have the right to review, direct, and approve or reject the contents or manner of such notification. To the extent that the Security Incident, Breach, or other unauthorized use, disclosure, damage or destruction of PHI occurs while the PHI is in the possession of the Business Associate or its subcontractor, Business Associate will be responsible for all costs incurred in resolving the Security Incident, Breach or other unauthorized use, disclosure, damage or destruction of PHI.

3.13. *Compliance with Covered Entity's Obligations.* To the extent that Business Associate is required under the Agreement to carry out obligations of Covered Entity imposed by the Privacy Rule, Business Associate will comply with all applicable provisions of the Privacy, Security and Omnibus Rules in performing such obligations.

#### 4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

##### 4.1 *General Use and Disclosure.*

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in any underlying agreement or agreements provided that such use or disclosure would not violate the Privacy Rule, or the Security Rule if done by Covered Entity.
- (b) All uses and disclosures of PHI must comply with the minimum necessary requirements under the Privacy Rule as well as the policies and procedures of Covered Entity. The Party disclosing PHI shall determine what constitutes the minimum necessary to accomplish the intended purpose of the disclosure. Until the effective date of further guidance or regulations issued on the meaning of minimum necessary, Business Associate shall use a Limited Data Set when using, disclosing, and requesting PHI, to the extent practicable. If using a Limited Data Set is not practicable, any use, disclosure, or request of PHI must be limited to the Minimum Necessary to accomplish the intended purpose of the use, disclosure, or request. After the effective date of subsequent implementing guidance and/or regulations on the meaning of Minimum Necessary, Business Associate shall comply with such guidance or regulations.

#### 4.2 *Specific Use and Disclosure.*

- (a) Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI for the proper management and administration of 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 Business Associate of any instances of which it becomes aware in which the confidentiality of the information has been breached.
- (b) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).
- (c) Business Associate may use PHI to report violations of law to appropriate state and federal authorities, to the extent permitted or required by 45 CFR § 164.502(j)(1) and state law.
- (d) Business Associate may de-identify PHI in accordance with the requirements outlined in the Privacy Rule. Data that has been de-identified will no longer be subject to the terms of this Agreement.

## 5. OBLIGATIONS OF COVERED ENTITY

- 5.1 *Privacy Practices.* Covered Entity shall provide Business Associate with the notice

of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520, as well as any changes to such notice.

5.2 *Notice of Changes and Restrictions.* Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent such changes affect Business Associate's permitted or required uses and disclosures. Such notification shall include any restriction that Covered Entity has agreed to in accordance with 45 CFR § 164.522. If Business Associate receives a request to restrict the disclosure of PHI directly from an Individual, Business Associate shall notify Covered Entity of such request and Covered Entity shall be responsible for making the determination, in accordance with the Privacy Rule, as to whether Business Associate shall comply with the Individual's request.

5.3 *Permissible Requests by Covered Entity.* Covered Entity shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under the Privacy Rule or the Security Rule if done by Covered Entity, except that Business Associate may use or disclose PHI for data aggregation or management and administrative activities of Business Associate.

## 6. TERM AND TERMINATION

6.1 *Term.* This Agreement shall be effective upon execution by the Parties and shall remain in effect for the duration of the relationship, functions or services giving rise to the necessity of a Business Associate Agreement, and until all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.

### 6.2 *Termination.*

(a) *Termination Resulting from the End of Relationship, Functions or Services.*

This Agreement shall terminate in the event that the underlying relationship, functions, or services that give rise to the necessity of a Business Associate Agreement terminate for any reason.

(b) *Termination for Cause.* This Agreement and any underlying agreement or agreements, may be terminated, in whole or in part, as determined by Covered Entity:

1. if Business Associate has breached a provision of this Agreement and Business Associate fails to cure such breach (to the extent a cure for such breach is possible) in thirty (30) days of receiving notice from Covered Entity of such breach; or
2. immediately upon written notice by Covered Entity to Business Associate if Covered Entity determines, in its sole discretion, that

Business Associate has breached a provision of this Agreement and cure is not possible (it is understood that the cure of a Use and/or Disclosure of PHI (or EPHI) made in violation of this Agreement is not possible for purposes of this Agreement.

(c) Agent or Subcontractor activities. If Business Associate knows of a pattern of activity or practice by subcontractor that constitutes a material breach or violation of subcontractor's obligations to Business Associate or the Privacy or Security Rules, Business Associate may provide Subcontractor with an opportunity to cure the breach or violation. If Subcontractor fails to cure the breach or violation to the satisfaction of Business Associate and/or Covered Entity within the time period specified by Business Associate or Covered Entity, Business Associate shall terminate the relationship with subcontractor and retrieve all PHI from the subcontractor. In the event termination or cure are not feasible, Business Associate shall report subcontractor's breach or violation to the Secretary.

### 6.3 *Return or Destruction of PHI.*

- (a) Except as provided in paragraph (b) of this section, upon termination of this Agreement for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the PHI.
- (b) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate and its agents and subcontractors shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Business Associate and/or its agents and subcontractors maintain such PHI.

## 7. INDEMNIFICATION

Business Associate shall indemnify and hold harmless Covered Entity from and against any and all losses, expenses, damages, or injuries that Covered Entity may sustain as a result of, or arising out of, a breach of this Agreement by Business Associate or its employees, agents, or subcontractors including, but not limited to, any unauthorized use, disclosure, damage, or destruction of PHI, or any negligent acts or omissions or intentional misconduct of Business Associate or its employees, agents, or subcontractors.



## 8. MISCELLANEOUS

8.1 *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule, the Security Rule, or ARRA, or any other reference to a law or regulation, means the section or law as in effect as of the date of this Agreement or as subsequently amended.

8.2 *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time to comply with the requirements of the Privacy Rule, the Security Rule, HIPAA, and ARRA.

8.3 *Survival.* The respective rights and obligations of Business Associate under Section 6.3 of this Agreement shall survive the termination of this Agreement.

8.4 *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy Rule, the Security Rule, and ARRA.

8.5 *Relationship to Other Agreement Provisions.* In the event that a provision of this Agreement is contrary to a provision of an underlying agreement or agreements under which Covered Entity discloses PHI to Business Associate, the provision of this Agreement shall control. Otherwise, this Agreement shall be construed under, and in accordance with, the terms of such underlying agreement or agreements between the Parties.

8.6 *Prior Business Associate Agreements.* Consistent with Section 7.5, this Agreement shall supersede any and all prior business associate agreement(s), or terms of other agreements addressing the privacy and security of PHI, between the Parties.

8.7 *Modification of Agreement.* No alteration, amendment or modification of the terms of this Agreement shall be valid or effective unless in writing and signed by Business Associate and Covered Entity.

8.8 *Notices.* Any notices required or permitted to be given under this Agreement by either Party shall be given in writing: (a) by personal delivery; (b) by electronic facsimile with confirmation sent by United States first class mail; (c) by bonded courier or nationally recognized overnight delivery service; or (d) by United States first class registered or certified mail, postage prepaid, return receipt requested, addressed to the Parties at the addresses set forth below or to such other addresses as the Parties may request in writing by notice pursuant to this Section 7.8. Notices shall be deemed received on the earliest of personal delivery, upon the next business day after delivery by electronic facsimile with confirmation that the transmission was completed or upon receipt by any other method of delivery.

**Covered Entity:** Common Ground Healthcare Cooperative, c/o General Counsel,  
120 Bishop's Way, Suite 150, Brookfield, WI 53005-6271

**Business Associate:** Broker at last known address

8.9 *Non-Waiver.* A failure of any party to enforce at any time any term, provision or

condition of this Agreement, or to exercise any right or option herein, shall in no way operate as a waiver thereof, nor shall any single or partial exercise preclude any other right or option herein; in no way whatsoever shall a waiver of any term, provision or condition of this Agreement be valid unless in writing, signed by the waiving party, and only to the extent set forth in such writing.

## Application Background Questions

The Applicant must read the following very carefully and answer every question. All written statements submitted by the Applicant must include an original signature.

- 1a. Have you ever been convicted of a misdemeanor, had a judgment withheld or deferred, or are you currently charged with committing a misdemeanor?

You may exclude the following misdemeanor convictions or pending misdemeanor charges: traffic citations, driving under the influence (DUI), driving while intoxicated (DWI), driving without a license, reckless driving, or driving with a suspended or revoked license.

You may also exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

- 1b. Have you ever been convicted of a felony, had a judgment withheld or deferred, or are you currently charged with committing a felony?

You may exclude juvenile adjudications (offenses where you were adjudicated delinquent in a juvenile court).

If you have a felony conviction involving dishonesty or breach of trust, have you applied for written consent to engage in the business of insurance in your home state as required by 18 USC 1033?

If so, was consent granted? (Attach copy of 1033 consent approved by home state.)

- 1c. Have you ever been convicted of a military offense, had a judgment withheld or deferred, or are you currently charged with committing a military offense?

**NOTE:** For Questions 1a., 1b. and 1c., “**Convicted**” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere or no contest, or having been given probation, a suspended sentence, or a fine.

If you answer yes to any of these questions, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) a copy of the charging document, and
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

2. Have you ever been named or involved as a party in an administrative proceeding, including FINRA sanction or arbitration proceeding regarding any professional or occupational license or registration?

“Involved” means having a license censured, suspended, revoked, canceled, terminated; or, being assessed a fine, a cease and desist order, a prohibition order, a compliance order, placed on probation, sanctioned or surrendering a license to resolve an administrative action. “Involved” also means being named as a party to an administrative or arbitration proceeding, which is related to a professional or occupational license, or registration. “Involved” also means having a license or registration application denied or the act of withdrawing an application to avoid a denial. INCLUDE any business so named because of your actions, in your capacity as an owner, partner, officer or director, or member or manager of a limited liability company. You may EXCLUDE terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license and explaining the circumstances of each incident,
- b) a copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

3. Has any demand been made or judgment rendered against you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, for overdue monies by an insurer, insured or producer, or have you ever been subject to a bankruptcy proceeding? Do not include personal bankruptcies, unless they involve funds held on behalf of others.

If you answer yes, submit a statement summarizing the details of the indebtedness and arrangements for repayment, and/or type and location of bankruptcy.

4. Have you been notified by any jurisdiction to which you are applying for any delinquent tax obligation that is not the subject of a repayment agreement?

If you answer yes, identify the jurisdiction(s):

5. Are you currently a party to, or have you ever been found liable in, any lawsuit, arbitrations or mediation proceeding involving allegations of fraud, misappropriation or conversion of funds, misrepresentation or breach of fiduciary duty?

If you answer yes, you must attach to this application:

- a) a written statement summarizing the details of each incident,
- b) a copy of the Petition, Complaint, or other document that commenced the lawsuit or arbitration, or mediation proceedings, and
- c) a copy of the official document, which demonstrates the resolution of the charges or any final judgment.

## Application Background Questions (continued)

6. Have you or any business in which you are or were an owner, partner, officer or director, or member or manager of a limited liability company, ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?

If you answer yes, you must attach to this application:

- a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving an insurance license, and
- b) copies of all relevant documents.

7. Do you have a child support obligation in arrearage?

If you answer Yes:

- a) by how many months are you in arrearage?
- b) are you currently subject to and in compliance with any repayment agreement?
- c) are you the subject of a child support-related subpoena/warrant?

(If you answered yes, provide documentation showing proof of current payments or an approved repayment plan from the appropriate state child support agency.

8. In response to a "yes" answer to one or more of the Background Information questions for this application, are you submitting document(s) to the NAIC/NIPR Attachments Warehouse?

If you answer yes,

Will you be associating (linking) previously filed documents from the NAIC/NIPR Attachments Warehouse to this application?

**Note:** If you have previously submitted documents to the Attachments Warehouse that are intended to be filed with this application, you **must** go to the Attachments Warehouse and associate (link) the supporting document(s) to this application based upon the particular background question number you have answered yes to on this application. You will receive information in a follow-up page at the end of the application process, providing a link to the Attachment Warehouse instructions.