

OPTIMA HEALTH AGENT/BROKER AGREEMENT

This Broker Agreement (the “Agreement”) between Optima Health Insurance Company, and Optima Health Plans (“Optima”) and the licensed health insurance Broker named below (“Broker”) is effective as of the date the Agreement is signed by both parties (the “Effective Date”).

Whereas, Optima desires to appoint Broker as its agent for the purpose of soliciting applications for Optima insurance products; and

Whereas, Broker desires to be appointed as a broker/agent for Optima;

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual covenants and promises contained herein, and for other good and valuable consideration, Optima and Broker agree as follows:

1. Subject to the terms, limitations, and conditions of this Agreement, Broker is hereby appointed to solicit applications for such products and policies that are issued by Optima in the Commonwealth of Virginia. Broker hereby accepts such appointment and agrees to comply with all policies, rules, and regulations of Optima. Broker hereby represents and warrants that Broker currently holds, and will maintain in good standing, a valid license to be an insurance broker/agent in the Commonwealth of Virginia. Upon execution of this Agreement, Broker will submit a copy of Broker’s license to Optima.
2. Subject to the terms and conditions of this Agreement, Optima shall pay Broker commissions on premiums for policies issued upon applications procured under this Agreement in accordance with the Agent/Broker Commission Schedule, which is attached hereto as Exhibit A and incorporated herein. Commissions shall only be paid for premiums that are received and accepted by Optima. Broker shall be responsible for any and all taxes. Optima will not withhold any taxes. Broker shall not be entitled to any other compensation, remuneration, bonuses via various Optima programs or sales contests, or other benefits of any nature for services rendered other than the commissions specified in the Agent/Broker commission Schedule. The Agent/Broker Commission Schedule shall be subject to change, upon written notice to Broker by Optima, but such change shall not affect any commissions on policies issued upon applications received by Optima prior to the date when such change becomes effective. Optima may fix the rates of compensation on any new plan or plans of insurance that it develops.

If Optima shall become liable for the return of any premiums for any cause, Broker shall repay to Optima on demand the total amount of commissions previously paid to Broker for such premiums. Broker shall not be entitled to any commissions on policies written in violation of any applicable federal or state law or regulation. In addition, if Broker’s appointment or license is terminated for any reason, Optima reserve the right to discontinue payment of any and all commissions upon notice of such termination. Upon Broker’s presentation to Optima of Broker’s license or appointment reinstatement, Optima will resume paying commissions. However, Optima will not retroactively pay commissions to Broker, which were incurred during the time when Broker did not have a valid license or appointment.

3. This Agreement shall become effective upon the Effective Date and shall remain in effect for a two (2) year term. The Agreement shall automatically renew for additional one (1) year terms unless either party gives written notice of its intent not to renew the Agreement within thirty (30) days prior to the end of the then current term, or unless the Agreement is otherwise terminated as specified herein.

4. This Agreement may be terminated at will, with or without cause, by either party giving the other party thirty (30) days' written notice. If Broker breaches this Agreement, violates any insurance laws resulting in the suspension or revocation of Broker's license, or incurs other disciplinary action by the appropriate regulatory authorities, is unable to obtain renewal of licensure, is convicted of a felony, becomes bankrupt, undergoes dissolution of a corporate or partnership form, or dies, Optima may, at its sole discretion, terminate this Agreement without notice as of the date of any one or more of these circumstances. In addition, Optima may terminate this Agreement immediately if Broker merges with or is acquired by a competitor or Optima, or if a competitor of Optima acquires substantially all of the assets of Broker.
5. Nothing contained herein shall be construed to create the relationship of employer and employee between Broker and Optima. Broker is an independent contractor for all purposes and in all situations. Broker shall not represent that Broker is an employee of Optima, nor shall Broker in any manner hold himself/herself out to be an employee of Optima. Broker shall be free to exercise independent judgment as to the time, place, and manner of exercising the authority granted under this Agreement.
6. Optima shall at all times have the right to refuse, decline, or withdraw from consideration any application for insurance submitted by Broker. Optima may make changes as it deems advisable in the conduct of its business, or discontinue issuing any of its products or policies at any time. No liability to Broker or right of action against Optima shall arise from Optima's exercise of the above rights.
7. Broker shall indemnify and hold Optima harmless from any and all expenses, costs, reasonable attorneys' fees, causes of action, losses, and damages resulting or arising from Broker's acts or omissions, or unauthorized acts done by Broker or Broker's employees. Optima shall indemnify and hold Broker harmless from any and all expenses, costs, reasonable attorneys' fees, causes of action, losses and damages arising from Optima's acts or omissions, or unauthorized acts done by Optima or Optima's employees.
8. Broker shall comply with the rules and policies of Optima with regard to confidentiality and the maintenance of the privacy of all non-public, personal information of applicants and customers. Broker and Optima also agree to comply with the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the rules and regulations promulgated thereunder, as well as guidance issued by the United States Department of Health and Human Services, (the "HIPAA" Regulations"). In addition, Broker and Optima agree to comply with all applicable laws and regulations with regard to maintaining the privacy of all non-public, personal information of applicants, customers, and beneficiaries, including, but not limited to the Gramm-Leach-Bliley Act.

It is understood that in the performance of its duties, Broker will obtain information about potential customers, and that such information may include Protected Health Information ("PHI") (that is subject to protection and defined under HIPAA). Broker agrees to maintain in strict confidence as required by law all information and data relating to a customer's PHI. The parties further agree to the terms and conditions of the Business Associate Agreement that has been executed by the parties and is incorporated herein. This provision shall survive the termination of this Agreement.

9. Broker agrees to assist companies and/or Optima in enrolling and maintaining members and in reviewing applications, as reasonably required by Optima. However, Broker shall have no authority to, nor shall Broker do any of the following:
 - A. Make, waive, discharge or change any term, rate or condition stated in any Optima policy, agreement, or approved form; or
 - B. Extend the time for payment of premiums or other monies due Optima; or

- C. Bring or defend any legal proceeding in connection with any matter pertaining to Optima's business; or
 - D. Offer to pay, directly or indirectly, any rebate of premiums or any other inducement not specified in the policy to any person, except as permitted by law; or
 - E. Transact business in contravention of the laws and regulations of any applicable insurance department and/or governmental authorities having jurisdiction of all subject matters embraced within this Agreement.
10. Optima will consider Broker to be a Broker of Record for every company that becomes a client of Optima during the term of this Agreement, unless such company requests Optima to remove Broker as a Broker of Record. In addition, Optima may change a company's Broker of Record at any time for any reason.
 11. Broker shall not broadcast, publish or distribute any advertisements or matters referring to Optima products without first securing Optima's approval in writing for such publications or distributions. Any enrollment subscription forms, applications, or other Optima material furnished to Broker by Optima shall remain the property of Optima, and all property of Optima shall be accounted for and returned to Optima on demand. If this Agreement is terminated or the return of Optima property is otherwise requested, no further commissions shall be payable to Broker until such property has been returned.
 12. The interest of the Broker in this Agreement and all rights hereunder, including specifically Broker's right to receive payment, is not assignable by operation of law or otherwise, unless Optima consents in writing to such assignment.
 13. Broker shall obtain insurance coverage in amounts usual and customary and provide evidence of such coverage to Optima upon request.
 14. Broker agrees to complete or attend any relevant training that Optima require within six (6) months after notification by Optima. If requested by Optima, Broker will provide evidence of the successful completion of any required training.
 15. Broker shall collect only the initial premium on applications or insurance policies solicited under the terms of this Agreement, and shall be responsible for all such monies. Such monies shall be collected only by check, money order, or other instrument made payable to Optima. Broker is not authorized to receive premiums payable to Broker's personal order. Broker shall not collect premiums in currency or coin unless specifically authorized by Optima for a particular transaction. All premium funds received for or on behalf of Optima shall be segregated and held by Broker as a fiduciary, and such funds shall not be used by Broker for any purpose whatsoever, but shall be transmitted to Optima immediately following receipt by Broker.
 16. For compensation to be paid, Broker must deliver an original completed Optima application for each applicant. The application should be immediately faxed or mailed to:

Optima Health Enrollment Department
4417 Corporation Lane
Virginia Beach, VA 23454
757-552-7199 (fax)

17. Broker: (i) shall keep confidential all Confidential Information of Optima; (ii) shall not use Confidential Information of Optima for any purpose other than in performance of this Agreement; and (iii) shall not disclose such Confidential Information either during or at any time after the term of this Agreement, without Optima's express written consent, unless required to do so by law, court order or subpoena in which case Broker shall not disclose such information until it has provided

advance notice to Optima such that it may timely act to protect such disclosure. For purposes of this Section 17, "Confidential Information" means non-public information about Optima and its employees that is disclosed or becomes known to Broker as a consequence of or through its activities under this Agreement, including, but not limited to, matters of a business nature, such as professional and prospective professional names and information, billing rates, compensation and benefits packages and structure, costs, profits, margins, markets, sales, business processes, information systems, and any other information of a similar nature. Broker shall use reasonable security measures to protect Confidential Information from unauthorized access, destruction, use, modification, or disclosures.

18. No waiver or modification of this Agreement shall be effective unless it is in writing and signed by a duly authorized Optima Officer. The failure of Optima to enforce any provision of this Agreement shall not constitute a waiver by Optima of that provision. The past waiver of a provision by Optima shall not constitute a course of conduct or a waiver of that provision in the future.
19. Broker agrees to maintain adequate books and records. Optima shall have the right, upon reasonable notice to Broker, to inspect and/or audit any and all of Broker's books, records, or other information related to Broker's services to Optima. Such audit will be conducted during regulator business hours.
20. The laws of the Commonwealth of Virginia shall govern all matters concerning the validity, performance and interpretation of this Agreement.
21. This Agreement renders void all previous Agreements, whether oral or in writing, between Broker and Optima. This Agreement, together with the Agent/Broker Commission Schedule and any amendments attached hereto now or in the future, constitute the entire Agreement among Optima and Broker. The authority of Broker shall extend no further than that which is stated in this Agreement.
22. If any provision of this Agreement is in conflict with or is rendered invalid or unenforceable by any local, state or federal law, rule or regulation, or declared null and void by any court of competent jurisdiction, the remainder of this Agreement shall remain in full force and effect. This Agreement shall be deemed automatically amended to comply with all local, state and federal laws, rules and regulations. This Agreement is confidential, and the parties agree to not disclose the Agreement or its contents to any third party without the other party's prior written consent, unless such disclosure is required by law.

Exhibit A
Optima Health Plan
Agent/Broker Commission Schedule

Individual Health Plans Commission Schedule
Effective July 1, 2012 – December 31, 2013

Individual Health Plan – Under Age 65	Year One	Renewal
Optima Plus PPO	10%	5%
Optima FourSight PPO	10%	5%
Optima Equity (HSA)	10%	5%
All Plans when Maximum Rate is applied*	1.5%	
<ul style="list-style-type: none"> • Maximum rate factor applies to HIPAA eligible plans 		

Individual Health Plans Commission Schedule
Effective January 1, 2014

Individual Health Plan – Under Age 65	<u>First Year</u>	<u>Renewal Years</u>
	\$18.00 PMPM	\$9.00 PMPM *

*PMPM = Per Member Per Month for those members for whom premium is collected. For example, a subscriber has four dependent children ages 2, 5, 7, and 16 on her individual plan. Since no more than three children under the age of 21 are factored to determine premium, commission will be paid only on the subscriber and three of her dependent children.

Small Group and Mid-Market Business Commission Schedule
Effective October 1, 2016

Commission for small and mid-market group customers will be paid on a PCPM rate based on market segment. Market segment will be determined based on the number of billed contracts on the first month billed.

		<u>First Year</u>	<u>Renewal Years</u>
2 – 3	Enrolled Employees	\$30.30	\$20.20
4-14	Enrolled Employees	\$40.40	\$30.30
15 – 50	Enrolled Employees	\$32.32	\$25.25
51 – 150	Enrolled Employees	\$25.25	\$20.20

Large Group Business Commission Schedule Effective October 1, 2016

A group with 151 or more eligible employees at the time the business is underwritten will be compensated under the large group commission schedule effective October 1, 2016. This commission schedule is effective for new business as of October 1, 2016 and for renewing business upon the group's renewal beginning October 1, 2016.

A group with 2-150 eligible employees at the time the business is underwritten will be compensated under the small group and mid-market commission schedule effective October 1, 2016.

For large groups (151+ eligible): All large group commissions will be on an "add-on" basis, according to the following schedule:

- 151-250 eligible employees: Up to 3 percent of premium
- 251-750 eligible employees: Up to 2.25 percent of premium
- 751+ eligible employees: Up to 1 percent of premium

Brokers must specify the commission percentage at the time the group is underwritten. If the desired commission rate exceeds the schedule amount, the broker must work directly with the customer to obtain the difference.

Exhibit B
BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “Agreement”) is made effective as of _____ (“Effective Date”) by and between Sentara Healthcare (“Covered Entity”) and _____ (“Business Associate”).

In consideration of the mutual covenants herein contained and intending to be legally bound hereby, the parties hereto agree as follows:

I. DEFINITIONS

A. In General. Terms used, but not otherwise defined, in this Agreement shall have the same meaning established for the purposes of the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”), ARRA (as defined below), the Privacy Rule (as defined below), the Security Rule (as defined below) and the Unsecured PHI Breach Rule (as defined below), as each is amended from time to time.

B. Specific Definitions.

1. “Applicable Law” shall mean any of the following items, including any amendments to any such item as such may become effective:
 - a. HIPAA;
 - b. the federal regulations regarding privacy and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 164 (the “Privacy Rule”);
 - c. the federal regulations regarding electronic data interchange and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 162 (the “Transaction Rule”);
 - d. the federal regulations regarding security and promulgated with respect to HIPAA, found at Title 45 CFR Parts 160 and 164 (the “Security Rule”);
 - e. the federal regulations regarding notification in the case of breach of Unsecured PHI, found at Title 45 CFR Parts 160 and 164 (the “Unsecured PHI Breach Rule”); and
 - f. ARRA.
2. “ARRA” mean Subtitle D of the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009.

3. “ePHI” means electronic protected health information within the meaning of 45 CFR § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
4. “PHI” shall have the same meaning as the term “protected health information” in 45 CFR § 160.103, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.
5. “Underlying Agreement” shall mean any agreement between Covered Entity and Business Associate, under which Business Associate, on behalf of Covered Entity, provides a service or product, or performs or assists in the performance of a function or activity, which involves the disclosure, creation, receipt, maintenance, or transmission of PHI by Business Associate from or on behalf of Covered Entity.
6. “Unsecured PHI” shall have the same meaning as the term “unsecured protected health information” in 45 CFR § 164.402, limited to the information created, received, maintained, or transmitted by Business Associate from or on behalf of Covered Entity.

II. RIGHTS AND OBLIGATIONS OF BUSINESS ASSOCIATE

A. General Obligations and Activities.

1. Business Associate shall not use or disclose PHI except as permitted by this Agreement or as required by law.
2. Business Associate shall use appropriate safeguards, and comply with the Security Rule with respect to ePHI, to prevent use or disclosure of PHI other than as provided for in this Agreement. Business Associate shall encrypt (as that term is defined in 45 CFR § 164.304) its portable electronic devices that contain ePHI in a manner that is consistent with the “Guidance Specifying the Technologies and Methodologies That Render Protected Health Information Unusable, Unreadable, or Indecipherable to Unauthorized Individuals” issued by the Department of Health and Human Services as published in the Federal Register (74 FR 19006) on April 27, 2009.
3. To the extent the Business Associate is to carry out one or more of Covered Entity’s obligations under the Privacy Rule, Business Associate will comply with the requirements of the Privacy Rule that apply to Covered Entity in the performance of such obligations.
4. Business Associate shall not receive remuneration, either directly or indirectly, in exchange for PHI, except as may be permitted by ARRA § 13405(d) and 45 CFR § 164.502(a)(5)(ii), as amended from time to time.

B. Reporting of Violations.

1. Business Associate shall report to Covered Entity within five (5) business days of it becoming aware of:
 - a. Any use or disclosure of PHI not provided for by this Agreement,
 - b. Any security incident, or
 - c. Any acquisition, access, use or disclosure of Unsecured PHI in a manner not permitted by the Privacy Rule.

2. The reports made to Covered Entity pursuant to paragraph 1 above shall include all relevant facts concerning the event and, with respect to reports of events set forth in paragraph 1.c. above, shall include the identity of each individual whose Unsecured PHI has been, or is reasonably believed by the Business Associate to have been, acquired, accessed, used or disclosed. As soon as possible thereafter, and to the extent known, Business Associate shall also provide Covered Entity with a description of:
 - a. What happened, including the date of the acquisition, access, use or disclosure and the date of it becoming aware to Business Associate;
 - b. The types of Unsecured PHI involved in the acquisition, access, use or disclosure;
 - c. Any steps an individual should take to protect themselves from the acquisition, access, use or disclosure; and
 - d. What Business Associate is doing to investigate the acquisition, access use or disclosure, to mitigate harm to individuals and to protect against any further unpermitted acquisition, access, use or disclosure of Unsecured PHI.

3. Business Associate will cooperate with Covered Entity's investigation and/or risk assessment with respect to any report made by Business Associate pursuant to paragraph 1.c. above and will abide by Covered Entity's decision with respect to whether such acquisition, access, use or disclosure constitutes a breach of Unsecured PHI for purposes of the Unsecured PHI Breach Rule.

4. Business Associate agrees to follow the instructions of Covered Entity with respect to any event reported to Covered Entity under paragraph 1.c. above that Covered Entity determines to be a breach of Unsecured PHI. Business Associate acknowledges that this may include, but not be limited to, the actions set forth in paragraphs a. through d. below:

- a. Providing written notice of the Unsecured PHI breach, on behalf of Covered Entity, without unreasonable delay, but no later than sixty (60) calendar days following the date the breach is discovered or such later date as is authorized under 45 CFR § 164.412, to each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, used, or disclosed as a result of the HIPAA Breach. The content, form, and delivery of such written notice shall comply in all respects with 45 CFR § 164.404(c)-(d). Business Associate and Covered Entity shall cooperate in all respects regarding the drafting and the content of the notice. To that end, before sending any notice to any individual, the Business Associate shall first provide a draft of the notice to the Covered Entity. Covered Entity shall have five (5) business days (plus any reasonable extensions) to provide comments on the Business Associate's draft of the notice.
- b. Business Associate will provide written notice of the breach of Unsecured PHI, on behalf of the Covered Entity, to the media to the extent required under 45 CFR § 164.406. Business Associate and the Covered Entity shall cooperate in all respects regarding the drafting and the content of the notice. To that end, before sending any notice to the media, Business Associate shall first provide a draft of the notice to the Covered Entity. Covered Entity shall have five (5) business days (plus any reasonable extensions) to provide comments on the Business Associate's draft of the notice.
- c. Business Associate will provide written notice of the breach of Unsecured PHI, on behalf of the Covered Entity, to the Secretary to the extent required under 45 CFR § 164.408. Business Associate and Covered Entity shall cooperate in all respects regarding the drafting and the content of the notice. To that end, before sending any notice to the Secretary, Business Associate shall first provide a draft of the notice to the Covered Entity. Covered Entity shall have five business days (plus any reasonable extensions) to provide comments on Business Associate's draft of the notice.
- d. If the breach of Unsecured PHI involves fewer than five hundred (500) individuals, Business Associate will maintain a log or other documentation of the breach of Unsecured PHI which contains such information as would be required to be included if the log were maintained by the Covered Entity pursuant to 45 CFR § 164.408, and provide such log to the Covered Entity within five (5) business days of the Covered Entity's written request.

C. Subcontractors.

1. In accordance with 45 C.F.R. § 164.308(b)(2), Business Associate shall ensure that any subcontractor that creates, receives, maintains or transmits ePHI on behalf of the Business Associate agrees to comply with the HIPAA Security Rule by entering into a contract or other arrangement that complies with 45 C.F.R. § 164.314.
 2. In accordance with 45 C.F.R. § 164.502(e)(1)(ii), Business Associate shall ensure that any subcontractor that creates, receives, maintains or transmits PHI on behalf of the Business Associate agrees to the same restrictions and conditions that apply to the Business Associate with respect to the PHI by entering into a contract or other arrangement that complies with 45 C.F.R. § 164.504(e)(1)(i).
- D. Access to Books and Records by Secretary.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by the Business Associate on behalf of the Covered Entity available to the Secretary for purposes of the Secretary determining Covered Entity's compliance with Applicable Law. Business Associate shall immediately notify Covered Entity upon receipt by Business Associate of any request for access by the Secretary, and shall provide Covered Entity with a copy thereof as well as a copy of all materials disclosed pursuant thereto.
- E. Mitigation.** Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of any item reportable to Covered Entity under paragraph B.1. above.
- F. Obligations Relating to Individual Rights.**
1. **Restrictions on Disclosures.** Upon request by an individual, Covered Entity shall determine whether an individual shall be granted a restriction on disclosure of the PHI pursuant to 45 CFR § 164.522. Covered Entity will not agree to any such restriction, if such restriction would affect Business Associate's use or disclosure of PHI, without the prior consent of Business Associate, *provided, however*, that Business Associate's consent is not required for requests that must be granted under ARRA § 13405(a). Covered Entity will communicate any grant of a request, made consistent with the foregoing, to Business Associate. Business Associate will restrict its disclosures of the individual's PHI in the same manner as would be required for Covered Entity. If Business Associate receives an individual's request for restrictions, Business Associate shall forward such request to Covered Entity within five (5) business days.

2. **Access to PHI.** Upon request by an individual, Covered Entity shall determine whether an individual is entitled to access his or her PHI pursuant to 45 CFR § 164.524. If Covered Entity determines that an individual is entitled to such access, and that such PHI is under the control of Business Associate, Covered Entity will communicate the decision to Business Associate. Business Associate shall provide access to the PHI in the same manner as would be required for Covered Entity. If Business Associate receives an individual's request to access his or her PHI, Business Associate shall forward such request to Covered Entity within five (5) business days.
3. **Amendment of PHI.** Upon request by an individual, Covered Entity shall determine whether any individual is entitled to amend his or her PHI pursuant to 45 CFR § 164.526. If Covered Entity determines that an individual is entitled to such an amendment, and that such PHI is both in a designated record set and under the control of Business Associate, Covered Entity will communicate the decision to Business Associate. Business Associate shall provide an opportunity to amend the PHI in the same manner as would be required for Covered Entity. If Business Associate receives an individual's request to amend his or her PHI, Business Associate shall forward such request to Covered Entity within five (5) business days.
4. **Accounting of Disclosures.** Upon request by an individual, Covered Entity shall determine whether any individual is entitled to an accounting pursuant to 45 CFR § 164.528. If Covered Entity determines that an Individual is entitled to an accounting, Covered Entity will communicate the decision to Business Associate. Business Associate will provide information to Covered Entity that will enable Covered Entity to meet its accounting obligations. If Business Associate receives an Individual's request for an accounting, Business Associate shall forward such request to Covered Entity within five (5) business days.

G. Permitted Uses and Disclosures by Business Associate.

Except as otherwise limited in this Agreement or by Applicable Law, Business Associate may:

1. Use or disclose PHI to perform functions, activities, or services for or on behalf of Covered Entity, as specified in any Underlying Agreement between the parties and in this Agreement, provided that such use or disclosure (i) is consistent with Covered Entity's notice of privacy practices and (ii) would not violate the Privacy Rule if done by Covered Entity, except for the specific uses and disclosures set forth in paragraphs 2 and 3 below;

2. Use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate;
3. Disclose PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided that (i) Business Associate obtains reasonable written assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached or (ii) the disclosures are required by law; and
4. Use PHI to provide data aggregation services to Covered Entity as permitted by 45 CFR § 164.504(e)(2)(i)(B).

III. RIGHTS AND OBLIGATIONS OF COVERED ENTITY

A. Privacy Practices and Restrictions.

1. Upon request, Covered Entity shall provide Business Associate with the notice of privacy practices that Covered Entity produces in accordance with 45 CFR § 164.520. If Covered Entity subsequently revises the notice, Covered Entity shall provide a copy of the revised notice to Business Associate.
2. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of PHI that Covered Entity has agreed to in accordance with 45 CFR § 164.522. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosures.

B. 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 if done by Covered Entity, provided that Covered Entity and Business Associate acknowledge that Business Associate may use or disclose PHI for the purposes and in accordance with the terms and conditions of paragraph II.G. of this Agreement.

IV. TERM AND TERMINATION

- A. Term.** The term of this Agreement shall begin on the Effective Date, and shall end: (i) upon termination or expiration of the last remaining Underlying Agreement, or if there is no Underlying Agreement in effect, when Covered Entity ceases disclosing PHI to Business Associate or allowing Business Associate access to or use of PHI, or (ii) upon termination for cause as set forth in the following Section IV.B, whichever is earlier.
- B. Termination for Cause.** Upon either party's knowledge of a material breach of this Agreement by the other party, the non-breaching party shall have the following rights:
1. If the breach is curable, the non-breaching party may provide an opportunity for the other party to cure the breach or end the violation. Alternatively, or if the other party fails to cure the breach or end the violation, the non-breaching party may terminate this Agreement and any Underlying Agreement.
 2. If the breach is not curable, the non-breaching party may immediately terminate this Agreement and any Underlying Agreement.
 3. If termination is not feasible, the non-breaching party may report the problem to the Secretary.
- C. Effect of Termination.**
1. Except as provided in Section IV.C.2 of this Agreement, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI within its possession or control, and all PHI that is in the possession or control of Business Associate's subcontractors or agents. Business Associate shall retain no copies of the PHI.
 2. If 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. Business Associate 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 maintains such PHI.

3. Except as otherwise expressly provided in this Agreement, all covenants, agreements, representations and warranties, express and implied, in this Agreement shall survive the expiration or termination of this Agreement, and shall remain in effect and binding upon the Parties until they have fulfilled all of their obligations hereunder and the statute of limitations shall not commence to run until the time such obligations have been fulfilled. Any terms of this Agreement that must survive the expiration or termination of this Agreement in order to have their intended effect, shall survive the expiration or termination of this Agreement whether or not expressly stated.

V. INDEMNIFICATION

Business Associate shall indemnify and hold Covered Entity harmless from and against all claims, liabilities, judgments, fines, assessments, penalties, awards or other expenses, of any kind or nature whatsoever, including, without limitation, attorney's fees, expert witness fees, and costs of investigation, litigation or dispute resolution, relating to or arising out of any breach of this Agreement by Business Associate. No provision concerning limitation of liability under any Underlying Agreement shall apply to Business Associate's obligations under this Agreement.

VI. RIGHT TO INJUNCTIVE RELIEF

Covered Entity and Business Associate agree that any violation of the provisions of this Agreement may cause irreparable harm to Covered Entity. Accordingly, in addition to any other remedies available to Covered Entity at law, in equity, or under this Agreement, in the event of any violation by Business Associate of any of the provisions of this Agreement, or any explicit threat thereof, Covered Entity shall be entitled to an injunction or other decree of specific performance with respect to such violation or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages.

VII. MISCELLANEOUS

- A. **Electronic Health Records.** The parties agree that Business Associate shall not maintain any "electronic health record" or "personal health record," as those terms are defined in ARRA, for or on behalf of Covered Entity. As such, Business Associate has no obligation to document disclosures that are exempt from the accounting requirement under 45 CFR § 164.528(1)(i)-(ix), and Covered Entity agrees not to include Business Associate on any list Covered Entity produces pursuant to ARRA § 13405(c)(3).

- B. Amendment.** To the extent that Applicable Law is amended in the future and to the extent that such amendments contain requirements and/or provisions not already contained in this Agreement that are required to be incorporated into this Agreement, the parties agree that either (i) this Agreement shall be deemed to be automatically amended to the extent necessary to incorporate such additional requirements and/or provisions, or (ii) if determined necessary by Covered Entity, they will enter into an amendment to this Agreement in order to incorporate any such additional requirements and/or provisions. All amendments to this Agreement, except those occurring by operation of law, shall be in writing and signed by both parties.
- C. Authority to Execute Agreement.** The individuals executing this Agreement on behalf of each party warrant and represent that they are authorized to execute this Agreement on behalf their respective party and have the power to bind their respective party to the terms set forth in this Agreement.
- D. Survival.** The respective rights and obligations of the parties under Sections II.D., IV.C, V and VI of this Agreement shall survive the term and termination of this Agreement.
- E. Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to comply with Applicable Law.
- F. Primacy.** To the extent that any provisions of this Agreement conflict with the provisions of any Underlying Agreement or any other agreement or understanding between the parties, this Agreement shall control with respect to the subject matter of this Agreement.
- G. No Third Party Beneficiaries.** This Agreement is for the sole benefit of the Parties, and there are no third party beneficiaries to the Agreement.
- H. No Assignment.** Covered Entity has entered into this Agreement in specific reliance on the expertise and qualifications of Business Associate. Consequently, Business Associate's duties under this Agreement may not be transferred, assigned or assumed by any other person, in whole or in part, without the prior written consent of the Covered Entity. Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, the Parties hereto and their respective permitted successors and assigns.
- I. Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. An executed Agreement delivered by

facsimile or other electronic transmission shall be treated as if an original.

[Remainder of Page Intentionally Left Blank]

Exhibit C

QHP Standards for Downstream and Delegated Entities

1. Standards. As a delegated or downstream entity of Optima, Vendor shall comply with applicable Affordable Care Act Marketplace (“Marketplace”) standards in the performance of services relating to Marketplace products on behalf of Optima, including but not limited to the following:
 - a. Standards of Title 45 of the Code of Federal Regulations (“CFR”), subpart C (Qualified Health Plan Minimum Certification Standards) of part 156 with respect to each of Optima’s qualified health plans on an ongoing basis;
 - b. Marketplace processes, procedures, and standards in accordance with Title 45 of the CFR, subparts H (Marketplace Functions: Small Business Health Options Program) and K (Marketplace Functions: Certification of QHPs) of part 155 and, in the small group market, 45 CFR § 155.705 (Functions of a SHOP);
 - c. Standards of 45 CFR § 155.220 with respect to assisting with enrollment in QHPs; and
 - d. Standards of 45 CFR §§ 156.705 and 156.715 for maintenance of records and compliance reviews for QHP issuers operating in a Federally-facilitated Marketplace or a Federally-facilitated-SHOP.
2. Delegation agreement specifications. To the extent that any of Optima’s activities or obligations arising from Section 1 are delegated to Vendor, the following provisions shall apply:
 - a. The delegated activities from Optima to Vendor are as follows: selling, soliciting, or negotiating insurance as more specifically set forth in the agreement.
 - b. The reporting responsibilities relating to the delegated activities are as follows: such reporting obligations as are more specifically set forth in the agreement.
 - c. Optima shall be entitled to revoke the delegated activities and reporting standards, in addition to any other remedy under this Agreement or available by law, in instances where the U.S. Department of Health and Human Services (“HHS”) or Optima determines that Vendor has not performed satisfactorily.
 - d. Vendor must permit access by the Secretary of HHS and the U.S. Office of the Inspector General or their designees in connection with their right to evaluate

through audit, inspection, or other means, to Vendor's books, contracts, computers, or other electronic systems, including medical records and documentation, relating to Optima's obligations in accordance with Federal standards under Section 1 until 10 years from the final date of this Agreement.

Amendment to Agent/Broker Agreement

This Amendment to Optima Health Agent/Broker Agreement ("Amendment") is entered into as of this day, by and between Broker ("Vendor") and Sentara Health Plans, Inc. ("SHP") on behalf of itself and its affiliates Optima Health Plan ("OHP") and Optima Health Insurance Company ("OHIC," along with OHP and SHP, collectively, "Optima").

Background

WHEREAS, Vendor and Optima entered into an Agent/Broker Agreement ("Agreement"), effective as of the date set forth therein, pursuant to which Vendor agreed to provide, certain broker services for the benefit of Optima, as provided thereunder;

WHEREAS, Optima is a health insurance issuer that is authorized by the U.S. Department of Health and Human Services and the Virginia State Corporation Commission, Bureau of Insurance to sell qualified health plans ("QHPs") to members in Virginia's Federally-Facilitated Marketplace ("Marketplace");

WHEREAS, under laws that regulate the sale of QHPs, health insurance issuers are obligated to ensure that their delegated and downstream entities comply with certain applicable standards;

WHEREAS, Vendor and Optima desire to amend the Agreement to incorporate certain changes to the terms of the Agreement, as specified herein, in order to comply with standards for delegated and downstream entities applicable to Vendor under the Affordable Care Act and Marketplace regulations.

NOW, THEREFORE, in consideration of the mutual agreements and promises contained herein, and for other valuable consideration, receipt of which is hereby acknowledged, the parties agree as follows:

1. All capitalized terms not defined herein shall have the same meaning as set forth under the Agreement.
2. A new Section is hereby added to the Agreement, as follows:

"QHP Standards for Downstream and Delegated Entities. A new Exhibit is hereby attached to this Agreement and incorporated by reference herein, which addresses the parties' obligations regarding compliance with Affordable

Care Act Marketplace standards for qualified health plan issuers' downstream and delegated entities.”

3. This Amendment may be executed in one or more counterparts, and transmitted between the parties via facsimile or other electronic means, all of which taken together shall constitute one and the same instrument. The parties intend that the electronically transmitted signatures constitute original signatures.

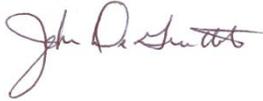
4. In the event of a conflict between the terms of the Agreement and this Amendment, this Amendment and the terms in the attached Exhibit shall control.

5. Except as expressly provided herein, the Agreement shall remain unmodified and in full force and effect.

The parties hereby agree to the terms contained herein:

Optima Health Insurance Company
Optima Health Plan

Broker



By: _____
(Signature)

by: _____
(Signature)

Print Name: John DeGruttola

Print Name: _____

Dated: _____

Dated: _____