



**Alvarez & Marsal**  
**Healthcare Industry Group, LLC**  
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November 24, 2015

The Honorable Anthony J. Albanese  
Acting Superintendent of Financial Services  
New York State Department of Financial Services  
One State Street  
New York, NY 10004

Health Republic Insurance of New York, Corp.  
Mike Honig  
30 Broad Street  
7th Fl.  
New York, NY 10004

Dear Acting Superintendent Albanese:

This letter confirms and sets forth the terms and conditions of the engagement of Alvarez & Marsal Healthcare Industry Group, LLC ("A&M") pursuant to the October 27, 2015 Resolution ("10/27 Resolution") of the Board of Directors of Health Republic Insurance of New York, Corp. (the "Company") and Section 310 of the New York Insurance Law (the "Insurance Law") to assist with the examination of the Company by the New York State Department of Financial Services (the "Department") and with the wind down of its operations. This Agreement includes the scope of the services to be performed and the basis of compensation for those services. Upon execution of this letter by each of the parties and receipt of the retainer described below, this letter will constitute an agreement among the Company, the Department and A&M (the "Agreement").

1. Description of Services

- (a) Officers. In connection with this engagement, A&M shall make available to the Company and the Department:
  - (i) Ronald Vance to serve as the Company's Chief Restructuring Officer (the "CRO"); and
  - (ii) Such additional employees of A&M and/or its affiliates ("Additional Personnel") as required (collectively, with the CRO, the "Engagement Personnel"), to assist the CRO in the execution of the duties set forth more fully herein. Certain of such Additional Personnel may be designated by the Company as executive officers.

- (b) The Engagement Personnel shall perform the following duties:
- (i) Overseeing the day-to-day operations of the Company;
  - (ii) Assisting the Department in developing a plan for the orderly wind-down of the Company;
  - (iii) Overseeing the execution and implementation of the wind-down plan approved by the Department, including but not limited to making decisions as to the hiring, retention, and firing of staff, subcontractors, and other professionals and advisors to the Company as is reasonably necessary; provided that such implementation will be consistent with the information contained in the letters sent to staff on November 6, 2015.
  - (iv) Conducting an assessment of the Company's financial condition, incorporating the impact of the Company's compliance with New York statutes, regulations, and circular letters<sup>1</sup>. The foregoing compliance component of the examination should be conducted with a focus on identifying the risks undertaken by the Company;
  - (v) Developing and implementing a workforce retention or reduction plan, as necessary, in order to effectively implement the wind-down plan;
  - (vi) Developing and implementing a strategy with regard to use and management of third party administrators, vendors, and consultants, including negotiating any amendments or giving notice of any terminations in accordance with such strategy;
  - (vii) Assisting in maintaining the Company's financial books and records;
  - (viii) Coordinating with regulatory authorities and any guaranty associations;
  - (ix) Managing any litigation matters (using counsel identified and/or approved by the Department);
  - (x) Overseeing inquiries by policy holders, contracted healthcare providers (hospitals, physicians, and other providers), external vendors, and other

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<sup>1</sup> It is understood and agreed that the Engagement Personnel are not providing legal advice or services and will be reliant on the legal interpretations provided by the Department and/or applicable legal counsel for the Company and/or the Department.

- parties regarding issues arising from daily operations and implementation of the wind-down plan;
- (xi) Overseeing and coordinating correspondence and any inquiries from external parties, including media and public relations;
  - (xii) Overseeing the vendors who handle claims and distributions;
  - (xiii) Identifying and overseeing all such other services as may be necessary to operate and wind-down the Company's operations; and
  - (xiv) Performing such other services as requested or directed by the Department and agreed to by A&M.
- (c) The Engagement Personnel shall report to the Department, and will make recommendations to and consult with the Department.
  - (d) The duties and responsibilities of the Engagement Personnel may be subject to revision upon the agreement of A&M and the Department.
  - (e) The Engagement Personnel will continue to be employed by A&M and, while rendering services for the engagement, will continue to work with other personnel at A&M in connection with unrelated matters that will not unduly interfere with the services rendered by the Engagement Personnel pursuant to this Agreement. With respect to the Company, however, the Board has consented pursuant to the board resolution dated October 27, 2015 to having the Engagement Personnel operate under the supervision of the Department. A&M shall have no authority to waive the Company's attorney client privilege.
  - (f) In connection with the services to be provided hereunder, from time to time A&M may use the services of employees of its affiliates as Engagement Personnel. Such affiliates are wholly owned by A&M's parent company and employees. However, A&M shall not use the services of any employee who worked on the Morneau Shepell engagement described in Section 8(b) of this Agreement and will institute an information screen between such employees and the Engagement Personnel.
2. Information Provided by Company and Forward Looking Statements. The Company shall: (i) provide the Engagement Personnel with access to management and other representatives of the Company; and (ii) furnish all data, material, and other information concerning the business, assets, liabilities, operations, cash flows, properties, financial condition, and prospects of the Company that Engagement Personnel reasonably request

in connection with the services to be provided to the Company. The Company and the Department acknowledge and agree that the Engagement Personnel are not responsible for the accuracy or completeness of such information and shall not be responsible for any inaccuracies or omissions therein. A&M and the Engagement Personnel are under no obligation to update or audit or verify data submitted to them or to review any other areas unless specifically requested by the Department to do so and agreed to by A&M.

The Department and Company understand that the services to be rendered by the Engagement Personnel may include the preparation of projections and other forward-looking statements, and numerous factors can affect the actual results of the Company's operations, which may materially and adversely differ from those projections. In addition, Engagement Personnel will be relying on information provided by the Company and others in the preparation of those projections and other forward-looking statements.

3. Limitation of Duties. Neither A&M nor the Engagement Personnel make any representations or guarantees that, inter alia,
- (i) an appropriate wind down proposal or strategic alternative can be formulated for the Company;
  - (ii) any wind down proposal or strategic alternative presented to the Department or the Board will be more successful than all other possible proposals or strategic alternatives;
  - (iii) wind down is the best course of action for the Company; or
  - (iv) that any proposed wind down plan or strategic alternative, if formulated, will be accepted by any of the Company's creditors and other constituents. Further, neither A&M nor the Engagement Personnel assumes any responsibility for the Company's or Department's decision to pursue or not pursue any business strategy, or to effect or not to effect any transaction. The Engagement Personnel shall be responsible for implementation only of the wind down plan or alternative approved by the Department and only to the extent and in the manner authorized and directed by the Department.
4. Compensation.
- (a) A&M will receive fees for the services of the Engagement Personnel based on the standard hourly rates for such personnel which fall in the following ranges:

Managing Directors

\$675/hour

Sr. Directors	\$575/hour
Directors	\$500/hour
Sr. Associates	\$400/hour
Associates	\$300/hour
Analysts	\$200/hour

Such rates shall be subject to adjustment annually at such time as A&M adjusts its rates generally with the approval of the Department.

The total amount billed each month by A&M for professional services rendered (not including reimbursed expenses), under the above scope of services outlined in this agreement, will be for actual hours worked each month multiplied by the firm's stated hourly rate for each individual, and shall not exceed \$395,000 for November 2015, without the express written agreement of the Department. The total amount billed for each subsequent month by A&M for professional services rendered (not including reimbursed expenses), under the above scope of services outlined in this Agreement, will be for actual hours worked each month multiplied by the firm's stated hourly rate for each individual, and shall not exceed \$750,000 without the express written agreement of the Department. A&M will provide weekly bills to the Department for review.

It is understood and agreed that A&M is entitled to fees for time and reimbursable expenses incurred in accordance with the terms hereof with respect to time spent and expenses incurred since November 2, 2015 in connection with the Engagement Personnel's discussions and dealings with the Company and the Department in preparation for this Engagement.

- (b) In addition, A&M will be reimbursed for its reasonable out-of-pocket expenses incurred in connection with this assignment, such as travel, lodging, duplicating, messenger, computer research, and telephone charges.
- (c) The Company shall promptly remit to A&M a retainer in the amount of \$395,000, which shall be drawn down by A&M on a bi-weekly basis against fees and expenses due to A&M under this Agreement, credited against any amounts due at the termination of this engagement, and returned upon the satisfaction of all obligations hereunder.

- (d) Consistent with the practices described above, on a bi-weekly basis, A&M may invoice the Company to replenish the retainer described in (c) above and to pay any amounts that may exceed the retainer. A&M will provide a copy of such invoices, with detailed back-up, to Mark Daigneault, Director of Financial Management, Administration Bureau, New York State Department of Financial Services, One Commerce Plaza, Suite 1850, Albany, N.Y. 12257. A&M may, if they wish, instead of submitting paper copies of their invoices submit their invoices to the Department as electronic documents by e-mailing them to [directbill@dfs.ny.gov](mailto:directbill@dfs.ny.gov). The Department will use reasonable efforts to review, analyze and, if appropriate, approve the invoices within 10 days of receipt. Once the Department has completed its review of a statement, the approved amount will be communicated to A&M and the Company. The Company will make reasonable efforts to make payments within four days of receipt of such approval. In any event, absent the Department notifying A&M and the Company that an invoice is not approved, the Company shall pay A&M's invoices within fourteen days of receipt by the Department thereof. The Department has the sole and exclusive right to determine, subject to A&M's right to refute and/or dispute such determination, whether the invoices and associated services were in accordance with the terms of this Agreement, as well as to direct the Company to adjust payments to reflect the Department's determinations and to seek A&M's refund (or credit against future invoices) for fees and expenses paid which are ultimately rejected by the Department following the date of payment.
- (e) Notwithstanding any provisions of this Letter Agreement to the contrary, neither the Department, the State of New York, nor any agency, officer, or employee thereof, shall have any liability or any other type of obligation to pay or compensate A&M for any services, expenses, or other costs incurred by A&M or others in connection with this Letter Agreement. However, at the request of A&M, the Department will reasonably assist A&M in assuring that A&M's monthly statements are paid by the Company in a timely manner.
- (f) A&M will develop, in coordination with the Department, a work plan and budget that shall separately outline and describe expected major tasks, the estimated amount of time necessary to complete such tasks, and the estimated cost to complete such tasks. A&M commits to use reasonable efforts to cause the Engagement Personnel to provide services to the Department in accordance with the work plan and budget, recognizing, however, that the work plan and budget are estimates, and the actual tasks performed, and the time and cost to complete

them, may vary from the work plan and budget. In addition, the CRO will provide the Department with weekly status reports in such format as reasonably required by the Department.

- (g) Should A&M wish to add new personnel to the team working on this examination during the term of this engagement, it must notify the Department in advance and in writing of its intention, identifying the person(s) and providing their biography, employee title, and qualifications.

5. Termination.

- (a) This Agreement will apply from the commencement of the services referred to in Section 1 and may be terminated by either A&M or the Department (i) without cause upon thirty days written notice to the other party and the Company and (ii) with cause with ten calendar days' written notice to the other party and the Company and (iii) at any time, by mutual agreement of A&M and the Department.
- (b) "Cause" shall include a situation wherein a party misrepresents or fails to disclose material facts, the Company fails to pay fees or expenses in accordance with the terms of the Agreement, or a party makes it unethical or unreasonably difficult for itself or another party to continue performance of the engagement.
- (c) On termination of the Agreement, any fees and expenses due to A&M shall be remitted promptly (including fees and expenses that accrued prior to but are invoiced subsequent to such termination).
- (d) The provisions of this Agreement that give the parties rights or obligations beyond its termination shall survive and continue to bind the parties.

6. No Audit. The Company and the Department acknowledge and agree that A&M and the Engagement Personnel are not being requested to perform an audit, review or compilation, or any other type of financial statement reporting engagement that is subject to the rules of the AICPA, SEC or other state or national professional or regulatory body.

7. No Third Party Beneficiary. The Company and Department acknowledge that all advice (written or oral) provided by A&M and the Engagement Personnel to the Company and/or the Department in connection with this engagement is intended solely for the benefit and use of the Department in considering the matters to which this engagement relates. The Company and Department agree that no such advice shall be used for any

other purpose or reproduced, disseminated, quoted or referred to at any time in any manner or for any purpose other than accomplishing the tasks referred to herein without A&M's prior approval (which shall not be unreasonably withheld), except as required by law.

8. Conflicts. (a) A&M is not currently aware of any relationship that would create a conflict of interest with the Company or those parties-in-interest of which you have made us aware other than with respect to the relationships described in subsections 8(b) and 8(c) below. Because A&M and its affiliates and subsidiaries comprise a consulting firm (the "Firm") that serves clients on an international basis in numerous cases, both in and out of court, it is possible that the Firm may have rendered or will render services to, or have business associations with, other entities or people that or who had or have or may have relationships with the Company, including creditors of the Company. The Firm will not be prevented or restricted by virtue of providing the services under this Agreement from providing services to other entities or individuals, including entities or individuals whose interests may be in competition or conflict with the Company's, provided that the Firm makes appropriate arrangements to ensure that the confidentiality of information is maintained and provided further that during the term of this engagement A&M shall not provide services to any other party in matters relating to the Company without prior notice to the Department affording the Department the opportunity to terminate this Agreement or waive the applicable conflict.

(b) We note that Alvarez & Marsal Business Consulting, LLC ("A&M BC") (a Firm entity) previously provided consulting services to Morneau Shepell ("MS") from approximately May 2014 to August 2015 in connection with MS's efforts to improve performance of the back office services (billing, enrollment and other member services) provided by MS to the Company. In connection with these services, A&M BC personnel at times worked directly with the Company's personnel on the implementation of the improvements and resolution of performance issues. In addition, (i) in or around February 2015, Ron Vance and certain other A&M personnel were involved in internal Firm discussions regarding a proposal to provide certain strategy and assessment work to MS regarding their technology platform which services would not have been directly related to the MS/Company relationships (this proposal was not accepted by MS, Mr. Vance never met with MS regarding this matter and Mr. Vance never received any of MS's confidential information in connection with such internal discussions), and (ii) an A&M BC Managing Director involved in the engagement was contacted in or around May 2015 directly by a then member of the Company's management team regarding the potential for A&M BC to assist the Company in standing up their own back office process. Considering the ongoing work with MS (at that time), A&M BC declined to pursue the Company opportunity described in (ii) above. A&M will ensure that no one who worked on the MS engagement works on this engagement and will institute an information screen



between the respective engagement teams prohibiting the sharing of information between the teams regarding their respective matters. In light of the foregoing, it is agreed that the Engagement Personnel will recuse themselves from any disputes (including identifying/investigating any causes of action, if any may exist) between MS and the Company. In those instances, the Department shall make any necessary decisions. .

(c) In addition, we note that A&M has provided services to various Company constituents including but not limited to certain vendors and New York State entities solely on matters unrelated to the Company. We note in particular the following matters unrelated to the Company:

- the Firm provides consulting services to RackSpace.

- In 2013 and early 2014, the Firm provided certain tax consulting services to a private equity fund in connection with such client's investment in MagnaCare. We also note that around that time, Ronald Vance was involved in a proposal to MagnaCare and/or the fund in connection with the potential for the Firm to provide business consulting services relating to MagnaCare, which matter never commenced.

- from 2011 into 2012, the Firm provided certain consulting services to a prior owner of HealthX in matters related to its sale of HealthX.

- Dentons, the Company's legal counsel, has provided and may continue to provide legal services to the Firm on matters unrelated to the Company. In addition the Firm has provided services to Dentons' clients (and in certain matters Dentons has engaged the Firm on behalf of such client).

9. Confidentiality. A&M and the Engagement Personnel shall keep as confidential all non-public information received from the Company in conjunction with this engagement, except:

- (i) as requested by the Department or the Company;
- (ii) as required by legal proceedings; or
- (iii) as reasonably required in the performance of this engagement. All obligations as to non-disclosure shall cease as to any part of such information to the extent that such information is, or becomes, public other than as a result of a breach of this provision.

(a) In connection with the services to be performed by A&M hereunder, A&M will be furnished with certain Confidential Information concerning the Company by the Department and may obtain from the Company access to its books and records. The term "Confidential Information" includes all such information relating to the Company's business activities so obtained by A&M. The term "Confidential Information" does not include information that (i) is or becomes generally available to the public other than as a result of a wrongful disclosure by A&M, (ii) is or becomes available to A&M from sources other than the Department or the Company, provided that such source is not known by A&M to be in breach of a written confidentiality agreement with the Department or the Company, (iii) was approved for release by written authorization of the Department or the Company, (iv) was independently developed by A&M without reference to the Confidential Information, (v) was lawfully within A&M's possession prior to its being furnished to A&M by the Department or the Company, provided that the source of such information was not known by A&M to be in breach of a written confidentiality agreement with the Department or the Company in respect thereof.

(b) A&M shall use the same standard of care to protect the Confidential Information as it uses to protect its own Confidential Information of a similar nature, but in no instance shall it use a standard of care less than a commercially reasonable standard of care. A&M agrees that the Confidential Information will be used solely for the purpose of the engagement. A&M also agrees that it will keep the Confidential Information confidential and that it will not disclose any of the Confidential Information to anyone other than the Department without the prior written consent of the Department, except as the Engagement Personnel deem reasonably necessary in furtherance of executing on the duties set forth more fully herein and not otherwise in contravention of an express direction by the Department.

(c) Certain data to be provided by the Company may be of a particularly sensitive nature, such as personal, private or sensitive information (PPSI) (e.g., social security numbers or home addresses), information pertaining to an individual's medical condition, and information specifically identified by the Company as a trade secret or commercially sensitive. A&M agrees to store and safeguard all such sensitive information, to the extent maintained in A&M's physical or technical environment, in a secure manner, either in hard copy, electronic form, or both, as may otherwise be required by law. If A&M uses email to transmit any such sensitive information, transmissions will be encrypted. Where applicable, access and password protocols will meet the standards of the New York State Office of Information Technology Services. For the avoidance of doubt, A&M may rely on the information technology and security of the Company with respect to information maintained in the Company's environment and/or transmitted from Company email or other similar means.

(d) To perform the services cited herein for this engagement, A&M may be required to access either the Department's computer network and associated examination data or the Company's computer network and associated data, or both. Therefore, an attestation in the form of a Computer Use Agreement ("CUA") is attached hereto as Appendix A and must be completed before any contemplated work commences. This attestation ensures all parties to this Agreement that security precautions have been implemented that satisfy the New York State Cyber Security Policy, as well as any other applicable state and federal laws and regulations, e.g., privacy statutes the Health Insurance Portability and Accountability Act ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH"). This agreement is required to be signed by all participants performing services under this Agreement, including all independent contractors. The person signing the CUA acknowledges that he/she is liable for any false statements resulting in either a violation of applicable state and/or federal laws and regulations, or for any damages resulting in accessing computer networks, servers or any other electronic media and equipment to the extent caused by the negligence or willful misconduct of such person. Any monetary damages awarded by a court would also be the responsibility of A&M if resulting from negligence pertaining to the attestations contained in the CUA.

(e) Upon written request by the Department, all written Confidential Information and all copies, (electronic or hard copy), extracts or other reproductions in whole or in part thereof) obtained by A&M from the Company or the Department shall be returned to the Department and have the status of Department work papers. Confidential electronic data must be destroyed and purged from all computer drives. Such destruction must be certified in writing to the Department and the Company by an authorized A&M representative supervising such destruction. Except as set forth in the last 2 sentences of this clause (e), no such Confidential Information shall be retained by A&M. A&M shall be permitted to retain one copy of any confidential information, internal memoranda and other documents developed by A&M during the term of this engagement, that contain or refer to Confidential Information, to comply with professional standards for the documentation of actuarial work product, subject to the confidentiality provisions of this paragraph. Notwithstanding the foregoing, A&M is not obligated to return or destroy (i) any Confidential Information stored on back-up media for purposes of disaster recovery in the ordinary course of business that may be subject to destruction in due course, provided that A&M is precluded from accessing such Confidential Information after expiration or termination but prior to its destruction other than as required by law, (ii) residual or latent data such as resulting from deleted files, automatically created temporary files, printer spool files, and metadata that can only be retrieved by computer forensics experts and is generally considered inaccessible without the use of specialized tools and techniques,

(f) A&M understands that, in carrying out its duties pursuant to this Agreement, it will be serving as an examiner appointed by the Superintendent pursuant to §310 of the Insurance Law. Such appointment imposes upon A&M certain obligations, including confidentiality obligations, mandated by New York Law. A&M represents that it has reviewed such obligations, understands such obligations, and that it will act in accordance with the obligations imposed upon it by virtue of its appointment as an examiner. If A&M (i) determines in good faith that disclosure of Confidential Information is required under applicable law, or (ii) is requested or required (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand or similar process) to disclose any of the Confidential Information or take any other action prohibited hereby, A&M will provide the Department and the Company with written notice within a reasonable time period so that each may seek to enforce the provisions of this Agreement or seek an appropriate protective order or other remedy and/or waive compliance with the provisions of this Agreement. Provided that the foregoing notice is furnished, if, in the absence of a protective order, A&M is compelled by an order of a court of competent jurisdiction to disclose Confidential Information, A&M may disclose such Confidential Information without liability under this Agreement or otherwise.

(g) It is understood that money damages may not be a sufficient remedy for any violation of the terms of this paragraph and, accordingly, the Company and the Department shall be entitled to seek specific performance and injunctive relief as remedies for any violation.

(h) A&M recognizes and acknowledges the competitive value and confidential nature of the Confidential Information and the damage that could result to the Company if information contained therein is disclosed in violation of the terms of this Agreement. A&M agrees that all of its representatives who have or will have access to the Confidential Information, as defined and contemplated herein, will first be advised of the confidential nature thereof and the requirement that the same be maintained in the strictest confidence in accordance with this Agreement. A&M is responsible for assuring that its agents, servants, contractors and employees, including Engagement Personnel, with access to such information are advised of and adhere to the confidentiality provisions herein.

(i) In accordance with the New York Information Security Breach and Notification Act ("ISBNA") (General Business Law Section 899-aa; State Technology Law Section 208), A&M shall be responsible for complying with the provisions of ISBNA and the terms contained herein with respect to any Private Information (as such term is defined in ISBNA) received by A&M under this Letter Agreement that is within the control of A&M.

(j) In the event of an actual or suspected breach (as defined by ISBNA) of the security of A&M's information security systems (the "System") that has the potential to threaten the security of the Confidential Information, A&M shall notify the Department of such actual or suspected breach promptly upon the discovery of such actual or suspected breach. In addition, A&M shall promptly investigate any actual or suspected breach to determine if such security breach actually occurred, the causes thereof, and the nature and extent of all personal, private, or sensitive information, if any, affected by such security breach. A&M shall proceed promptly to: (i) mitigate any adverse impact to the Company and any affected individuals resulting from such security breach, as the Department may direct; and (ii) prevent similar security breaches from occurring in the future. A&M will keep the Department fully informed of all stages of the investigation and all actions taken as a result thereof. Once A&M determines the nature and extent of the security breach, and the scope of the personal, private, or sensitive information that may have been affected by such security breach, A&M shall deliver to the Department a written report regarding its findings.

(k) Unless instructed otherwise by the Department, A&M shall, to the fullest extent possible, first consult with, and receive authorization from, the Department prior to undertaking any notifications required by ISBNA, including notifications to any individuals affected by the breach, the New York State Office of the Attorney General, the New York State Consumer Protection Board, the New York State Office of Information Technology Services, or any consumer reporting agencies. A&M shall also consult with the Department concerning any determination to delay notification due to law enforcement investigations, as set forth in ISBNA. If a breach of the security of the System is caused by A&M's negligent or other wrongful acts or omissions, or the negligent or other wrongful acts or omissions of A&M's agents, officers, employees, (including Engagement Personnel) or subcontractors, A&M shall be responsible for providing the notice required pursuant to ISBNA to all recipients specified by ISBNA, and for all costs associated with providing such notice.

(l) Nothing herein shall in any way limit A&M's liability for any violations of ISBNA with respect to information on the System, or impair the authority of the Department to bring any action or proceeding against A&M to enforce the provisions of ISBNA.

(m) Additional information concerning ISBNA and the notification process is available at the New York State Office of Information Technology Services website: <http://www.its.ny.gov>.

(n) Notices to the Department for a breach under this paragraph shall be sent to Stephen Wiest via electronic mail at [Stephen.wiest@dfs.ny.gov](mailto:Stephen.wiest@dfs.ny.gov).

10. Non-Solicitation

The Company, on behalf of itself and its subsidiaries and affiliates and any person who may acquire all or substantially all of its assets, agrees that, until two (2) years subsequent to the termination of this engagement, it will not solicit, recruit, hire or otherwise engage any employee of A&M or any of its affiliates who worked on this engagement while employed by A&M or its affiliates ("Solicited Person"). Should the Company or any of its subsidiaries or affiliates or any person who acquires all or substantially all of its assets extend an offer of employment to or otherwise engage any Solicited Person and should such offer be accepted, A&M shall be entitled to a fee from the Company equal to the Solicited Person's hourly client billing rate at the time of the offer multiplied by 4,000 hours for a Managing Director, 3,000 hours for a Senior Director and 2,000 hours for any other A&M employee. The Company acknowledges and agrees that this fee fairly represents the loss that A&M will suffer if the Company breaches this provision. The fee shall be payable at the time of the Solicited Person's acceptance of employment or engagement.

11. Indemnification/Limitations on Liability. The Company shall indemnify the Engagement Personnel acting as officers (the "Indemnified Professionals") to the same extent as the most favorable indemnification it extends to its officers or directors, whether under the Company's bylaws, its certificate of incorporation, by contract or otherwise, and no reduction or termination in any of the benefits provided to the officers and directors of the Company shall affect the benefits provided to the Indemnified Professionals. As a condition of A&M's accepting this engagement, a Certificate of Insurance evidencing director and officer liability coverage reasonably acceptable to A&M shall be furnished to A&M prior to the effective date of this Agreement. The Company shall give thirty (30) days' prior written notice to A&M of cancellation, non-renewal, or material change in coverage, scope, or amount of such director and officer liability policy. The Company shall also maintain such insurance coverage for the Indemnified Professionals for a period of not less than six years following the date of the termination of the Indemnified Professionals' services hereunder. The provisions of this section are in the nature of contractual obligations and no change in applicable law or the Company's charter, bylaws or other organizational documents or policies shall affect the Indemnified Professionals' rights hereunder.

In addition and without limiting the foregoing,

- (a) The Department and Company agree that
    - (i) in no event shall A&M's and the Engagement Personnel's total liability (whether direct or indirect, in contract or tort or otherwise) to the Company, the Department and/or any other person, for or in connection with the engagement hereunder, exceed the portion of the fees received by A&M hereunder relating to the associated liability, except to the extent such liability is found in a final judgment by a court of competent jurisdiction to have resulted primarily and directly from A&M's gross negligence or willful misconduct and
    - (ii) in no event will A&M or the Engagement Personnel have any liability for special, consequential, incidental or exemplary damages or loss (nor any lost profits, savings, or business opportunity).
  - (b) NOTWITHSTANDING THE FOREGOING, A&M REMAINS LIABLE, WITHOUT MONETARY LIMITATION, FOR DIRECT DAMAGES FOR BODILY INJURY, DEATH OR DAMAGE TO REAL PROPERTY OR TANGIBLE PERSONAL PROPERTY ATTRIBUTABLE TO THE NEGLIGENCE OR OTHER TORT OF A&M, ITS OFFICERS, EMPLOYEES OR AGENTS.
  - (c) The attached indemnification agreement (Appendix B hereto) between A&M and the Company is incorporated herein.
  - (d) The termination of this agreement or the engagement shall not affect the provisions of this Section 11 (including the aforementioned indemnification agreement), which shall remain in full force and effect.
12. Miscellaneous. This Agreement (together with the attached indemnity provisions), including, without limitation, the construction and interpretation thereof and all claims, controversies and disputes arising under or relating thereto, shall be governed and construed in accordance with the laws of the State of New York, without regard to principles of conflict of law that would defer to the laws of another jurisdiction. The Company, the Department, and A&M agree to waive trial by jury in any action, proceeding or counterclaim brought by or on behalf of the parties hereto with respect to any matter relating to or arising out of the engagement or the performance or non-performance of A&M hereunder.

The Company, the Department, and A&M agree, to the extent permitted by applicable law, to jurisdiction in any court of the State of New York sitting in the City of New York,



and to waive any and all personal rights under the law of any jurisdiction to object on any basis (including, without limitation, inconvenience of forum) to jurisdiction or venue within the State of New York for any litigation arising in connection with this Agreement.

This Agreement shall be binding upon A&M, the Department, and the Company, their respective heirs, successors, and assignees, and any heir, successor, or assignee of a substantial portion of A&M's or the Company's respective businesses and/or assets. This Agreement incorporates the entire understanding of the parties with respect to the subject matter hereof, and supersedes any prior inconsistent agreements by and between any of the parties hereto. This Agreement may not be amended or modified except in a writing executed by the Company, the Department, and A&M. Notwithstanding anything herein to the contrary, to the extent that such information about this engagement is publicly available, A&M may reference or list the Company's name and/or logo and/or, a general description of the services rendered to the Company in A&M's marketing materials, including, without limitation, on A&M's website.

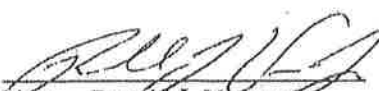


If the foregoing is acceptable to you, kindly sign the enclosed copy to acknowledge your agreement with its terms.

Very truly yours,

Alvarez & Marsal Healthcare Industry Group, LLC


By:

  
Name: Ronald J. Vance, Jr.  
Managing Director

Accepted and agreed:

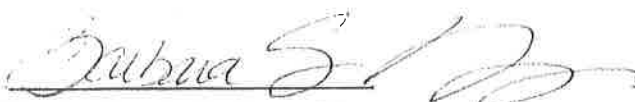
New York State Department of Financial Services

By:

  
Cheryl A. Aini  
Director of Administration

Health Republic Insurance of New York and its Board of Directors

By:

  
Name: Barbara S. Davis  
Title: Board Chair

**APPENDIX A**

**New York State Department of Financial Services**  
**CONSULTANT Computer Use Agreement CUA**

CONSULTANT located in has been engaged by the New York State Department of Financial Services. CONSULTANT shall be examining Insurer to oversee the day-to-day operations of Insurer. In order to perform this examination, it is anticipated that electronic equipment and associated software will be utilized. To protect the integrity of data and networks which may require interface with CONSULTANT's electronic equipment and software, it is required that any and all such equipment be protected from misuse and electronic attack (this includes, but is not limited to, viruses, worms, trojans, BOTs, any kind of spyware/malware/adware). The type of security protection being used by the CONSULTANT must be disclosed on the attached form. The product name and services must be specified. This will include for example, firewall, anti-virus information. In addition CONSULTANT hereby attests that the security programs are routinely updated as dictated by the programs used. It is also required that all laptops be password protected, have full disk encryption and access and password protocols meet the standards of the New York State Information Security Policy PO3-002.

The Department does not typically allow the use of wireless connections. If there is a bonafide business reason to use wireless connections, permission must be requested in writing to the Department. Such permission shall be contingent upon a demonstration of the business need and an attestation that all default passwords have been changed in addition to having and maintaining acceptable wireless security measures. The Department will review all such requests and reply in writing to the request within a reasonable timeframe.

All point to point transmissions must be encrypted and the encryption standard used must be disclosed to the Department (current requirement minimum is 256 bit encryption). All Department and non-Department laptops must have full disk encryption. Any private personal data or HIPAA/HITECH related data must adhere to the standards noted in those specific statutes/regulations.

Each staff person from the entity identified above who is going to be assigned to this examination that may be working from a remote site at any time that is not located either at the insurer identified above or at the Department, in signing this agreement, attests that the information residing on equipment used for this engagement cannot be accessed by any unauthorized user.

Authorized CONSULTANT Representative:

Signature R. Vance, Jr.

(Print Name and Date) Ronald J. Vance, Jr. 11/24/2015

Each person assigned to this examination, by their signatures below, hereby agree to abide by the terms of the foregoing Agreement: **Attach additional sheets if required.**

\_\_\_\_\_  
Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

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Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

\_\_\_\_\_  
Company, Name, (print and signature) Date

NYS DFS/Health Republic Insurance of New York

Page 20

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Company, Name, (print and signature)

Date

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Company, Name, (print and signature)

Date

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Company, Name, (print and signature)

Date

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Company, Name, (print and signature)

Date



**APPENDIX B**  
**INDEMNIFICATION AGREEMENT**

This indemnity is made part of an agreement, dated November 24, 2015 (which together with any renewals, modifications, or extensions thereof, is herein referred to as the "Agreement") by and between Alvarez & Marsal Healthcare Industry Group, LLC ("A&M"), Health Republic Insurance of New York, Corp. (the "Company"), and the New York State Department of Financial Services (the "Department").

A. The Company agrees to indemnify and hold harmless each of A&M, its affiliates, and their respective shareholders, members, managers, employees, agents, representatives and subcontractors (each, an "Indemnified Party" and collectively, the "Indemnified Parties") against any and all losses, claims, damages, liabilities, penalties, obligations, and expenses, including the costs for counsel or others (including employees of A&M, based on their then current hourly billing rates) in investigating, preparing or defending any action or claim, whether or not in connection with litigation in which any Indemnified Party is a party, or enforcing the Agreement (including these indemnity provisions), as and when incurred, caused by, relating to, based upon or arising out of (directly or indirectly) the Indemnified Parties' acceptance of or the performance or nonperformance of their obligations under the Agreement; provided, however, such indemnity shall not apply to any such loss, claim, damage, liability, or expense to the extent it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. The Company also agrees that no Indemnified Party shall have any liability (whether direct or indirect, in contract or tort or otherwise) to the Company for or in connection with the engagement of A&M, except to the extent that any such liability for losses, claims, damages, liabilities or expenses are found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to have resulted primarily and directly from such Indemnified Party's gross negligence or willful misconduct. The Company further agrees that it will not, without the prior consent of an Indemnified Party, settle or compromise or consent to the entry of any judgment in any pending or threatened claim, action, suit or proceeding in respect of which such Indemnified Party seeks indemnification hereunder (whether or not such Indemnified Party is an actual party to such claim, action, suit or proceedings) unless such settlement, compromise or consent includes an unconditional release of such Indemnified Party from all liabilities arising out of such claim, action, suit or proceeding.

B. These indemnification provisions shall be in addition to any liability that the Company may otherwise have to the Indemnified Parties. In the event that, at any time whether before or after termination of the engagement or the Agreement, as a result of or in connection with the Agreement or A&M's and its personnel's role under the Agreement, A&M or any Indemnified

Party is required to produce any of its personnel (including former employees) for examination, deposition or other written, recorded or oral presentation, or A&M or any of its personnel (including former employees) or any other Indemnified Party is required to produce or otherwise review, compile, submit, duplicate, search for, organize or report on any material within such Indemnified Party's possession or control pursuant to a subpoena or other legal (including administrative) process, the Company will reimburse the Indemnified Party for its out of pocket expenses, including the reasonable fees and expenses of its counsel, and will compensate the Indemnified Party for the time expended by its personnel based on such personnel's then current hourly rate.

C. If any action, proceeding, or investigation is commenced to which any Indemnified Party proposes to demand indemnification hereunder, such Indemnified Party shall notify the Company with reasonable promptness; provided, however, that any failure by such Indemnified Party to notify the Company will not relieve the Company from its obligations hereunder, except to the extent that such failure shall have actually prejudiced the defense of such action. The Company shall promptly pay expenses reasonably incurred by any Indemnified Party in defending, participating in, or settling any action, proceeding or investigation in which such Indemnified Party is a party or is threatened to be made a party or otherwise is participating in by reason of the engagement under the Agreement, upon submission of invoices therefor, whether in advance of the final disposition of such action, proceeding, or investigation or otherwise. Each Indemnified Party hereby undertakes, and the Company hereby accepts its undertaking, to repay any and all such amounts so advanced if it shall ultimately be determined that such Indemnified Party is not entitled to be indemnified therefor. If any such action, proceeding or investigation in which an Indemnified Party is a party is also against the Company, the Company may, in lieu of advancing the expenses of separate counsel for such Indemnified Party, provide such Indemnified Party with legal representation by the same counsel who represents the Company, provided such counsel is reasonably satisfactory to such Indemnified Party, at no cost to such Indemnified Party; provided, however, that if such counsel or counsel to the Indemnified Party shall determine that due to the existence of actual or potential conflicts of interest between such Indemnified Party and the Company such counsel is unable to represent both the Indemnified Party and the Company, then the Indemnified Party shall be entitled to use separate counsel of its own choice, and the Company shall promptly advance its reasonable expenses of such separate counsel upon submission of invoices therefor. Nothing herein shall prevent an Indemnified Party from using separate counsel of its own choice at its own expense. The Company will be liable for any settlement of any claim against an Indemnified Party made with the Company's written consent, which consent shall not be unreasonably withheld.

D. In order to provide for just and equitable contribution if a claim for indemnification pursuant to these indemnification provisions is made but it is found in a final judgment by a court of competent jurisdiction (not subject to further appeal) that such indemnification may not

be enforced in such case, even though the express provisions hereof provide for indemnification, then the relative fault of the Company, on the one hand, and the Indemnified Parties, on the other hand, in connection with the statements, acts or omissions which resulted in the losses, claims, damages, liabilities and costs giving rise to the indemnification claim and other relevant equitable considerations shall be considered; and further provided that in no event will the Indemnified Parties' aggregate contribution for all losses, claims, damages, liabilities and expenses with respect to which contribution is available hereunder exceed the amount of fees actually received by the Indemnified Parties pursuant to the Agreement. No person found liable for a fraudulent misrepresentation shall be entitled to contribution hereunder from any person who is not also found liable for such fraudulent misrepresentation.

E. In the event the Company and A&M seek judicial approval for the assumption of the Agreement or authorization to enter into a new engagement agreement pursuant to either of which A&M would continue to be engaged by the Company, the Company shall promptly pay expenses reasonably incurred by the Indemnified Parties, including attorneys' fees and expenses, in connection with any motion, action or claim made either in support of or in opposition to any such retention or authorization, whether in advance of or following any judicial disposition of such motion, action or claim, promptly upon submission of invoices therefor and regardless of whether such retention or authorization is approved by any court. The Company will also promptly pay the Indemnified Parties for any expenses reasonably incurred by them, including attorneys' fees and expenses, in seeking payment of all amounts owed it under the Agreement (or any new engagement agreement) whether through submission of a fee application or in any other manner, without offset, recoupment or counterclaim, whether as a secured claim, an administrative expense claim, an unsecured claim, a prepetition claim or a postpetition claim.

F. Neither termination of the Agreement nor termination of A&M's engagement nor the filing of a petition under Article 74 of the New York Insurance Law shall affect these indemnification provisions, which shall hereafter remain operative and in full force and effect.

G. The rights provided herein shall not be deemed exclusive of any other rights to which the Indemnified Parties may be entitled under the certificate of incorporation or bylaws of the Company, any other agreements, any vote of stockholders or disinterested directors of the Company, any applicable law or otherwise.

HEALTH REPUBLIC INSURANCE OF  
NEW YORK, CORP.

ALVAREZ & MARSAL HEALTHCARE  
INDUSTRY GROUP, LLC

By: \_\_\_\_\_

By: 