



Dear Valued Broker:

Thank you for your interest in Mindboost. This is an exciting time to work with us. We are on a mission to improve the mental and emotional wellbeing of employees everywhere. You are key in helping us achieve this mission. You can be confident that our Mindboost Employer Mental Wellness program, our broker suite of application tools and our customer relations team will provide you with the support you need to be successful in today's market.

We are here to ensure your success. That is why we have built a service team that supports you and your customers at every stage. Your customers will benefit from having a happier, engaged, and productive workforce.

Become a part of our team today! Complete and return the attached agreement along with the required documentation. If you have any questions, please call our Broker Services team at (800) 840-5785.

Kind Regards,

Susie Flores

Chief Executive Officer

Mindboost

16 Technology Drive, Suite 200 | Irvine, CA 92618



2022

Sales Broker Agreement

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HealthPort, Inc.
Mindboost Sales Broker Agreement

This Sales Broker (“Broker”) Agreement (“Agreement”) is made by and between the following parties:

1. _____ (“Broker,” “you,” “your”)
(Insert Broker’s Name)
2. HealthPort, Inc. (“HealthPort,” “us,” “we,” “our,”), a California corporation located at 16 Technology Drive, Suite 200, Irvine, CA 92618.

For good and valuable consideration, the sufficiency of which both parties hereby acknowledge, the parties agree as follows:

Article I: Obligations of Broker

You agree to perform and fulfill the following services and meet the following requirements:

1.1 HealthPort Mindboost Employee Wellness Program Contracts

Subject to the terms and conditions of this Agreement, you are authorized, on a non-exclusive basis, to market the Mindboost Employee Wellness Program, solicit and submit Contracts (“Contracts” “Contract”) and maintain business relationships for each subscription sale of the Mindboost Employee Program.

1.2 Application Agreement

This Agreement shall apply to you and your principals, partners and investors, employees, staff or any person who otherwise assists you in selling the Mindboost Employee Wellness Program application. You agree to be solely responsible for your associates (including, but not limited to, those persons who are employed by or have a contract with you to sell on your behalf) under this Agreement and for their compensation, training, supplies and correspondence. You agree to ensure your associates’ adherence to all applicable terms of this Agreement including but not limited to, the requirements regarding E&O liability insurance (as set forth below), licensure where applicable, soliciting and advertising.

1.3 Broker Expertise

You agree to maintain sufficient knowledge of the following to perform competently your obligations under this Agreement:

- a. Mindboost Employee Wellness Program, features and services;
- b. Mindboost Employee Wellness Program, contracting, practices, policies and procedures, customer onboarding and support. You agree to comply with such rules, practices, policies and procedures. HealthPort agrees to inform you of such rules, practices, policies and procedures, including but not limited to privacy practices, customer onboarding, sales, and marketing which may be amended from time to time at our sole discretion; and
- c. All laws, rules and regulations set forth in Section 1.5 below.

1.4 Independent Broker Relationship

You acknowledge and agree that, in selling and servicing Contracts, you are an independent Broker. No employer-employee relationship, employee rights or employee benefits are created by or included with this Agreement.

1.5 Law

You agree to comply with all applicable state and federal laws, all applicable regulations and rules adopted thereunder, the federal Health Insurance Portability and Accountability Act of 1996 and the Health Information Technology for Economic and Clinical Health (HITECH) Act, as amended, and their implementing regulations (collectively referred to as “HIPAA”), all applicable state and federal laws and regulations pertaining to solicitation, marketing and telemarketing including the Telemarketing and Consumer Fraud and Abuse Prevention Act (codified at 15 U.S.C. § 6102 et seq.) and the Telemarketing Sales Rule (set forth at 16 CFR § 310.1 et seq.) (collectively, the “Telemarketing Rules”), and all other applicable state, federal and local laws and regulations each as may be amended from time to time, in carrying out this Agreement. You agree to file reports required by law and pay any taxes or fees that may be charged on commissions and bonuses paid to you by HealthPort. This Section 1.5 shall survive termination of this Agreement for any reason.

1.6 Services

You agree to perform the following services, as appropriate, when a client shows interest in deploying the Mindboost Employee Wellness Program:

- a. Contact the client; fully and accurately explain the services provided by the Mindboost Employee Wellness Program;
- b. If the client is interested, you will have the client execute a Mindboost Employee Wellness Program agreement via your Mindboost Broker portal; including creating the organization profile, and will explain to the client that all submitted Contracts are subject to HealthPort approval;
- c. Provide the client with the appropriate subscription rate(s), clearly explaining that only HealthPort can negotiate changes in rates, terms or conditions;
- d. Make no commitments on HealthPort’s behalf that have not been fully approved in writing by us;
- e. Direct all HealthPort approved clients to set up billing payments in accordance with our billing procedures;
- f. Assist in resolving any problems that arise with the client;

1.7 Dues and Subscriptions Fees

- a. You agree that you and your associates are prohibited from receiving funds on our behalf;
- b. Commingling of funds is absolutely prohibited;

1.8 Books and Records

- a. You agree to keep and maintain your books of account and other records on a current basis including, but not limited to, records of all transactions regarding applications for Contracts. You agree to keep a current list of the names and addresses of your principals, partners and investors, as well as all employees, staff or other persons who themselves solicit or otherwise assist you in soliciting HealthPort Contracts. You agree to preserve these books of account and other records, including all applications, for the longer of seven (7) years, keeping on file the most recent two (2) years; books of account and records in an easily accessible place at your offices. After two (2) years’ books of account and other records may be warehoused, stored, or microfilmed as long as they are available within five (5) days after they are requested.
- b. You agree to make your internal practices, books and records relating to your use and disclosure of the Protected Health Information you create, receive, maintain or transmit on behalf of HealthPort, available to us and/or your client compliance with HIPAA; the periods and in the manner outlined in Section 1.8 (a) above. This Section 1.7 shall survive the termination of this Agreement for any reason.

1.9 Advertising and Marketing Materials

- a. You agree that you shall comply with all HealthPort rules and guidelines regarding advertising and written materials (“Advertising Guidelines”), as they may be amended from time to time in our sole discretion. Such rules and guidelines are incorporated into this Agreement by this reference.
- b. You agree to accept all sales and marketing-related communications from HealthPort, whether delivered by mail, facsimile or electronic mail.
- c. You may add only your business name, personal name, business address, license number (if applicable), telephone number, fax number, business website address and business email address to any advertising copy provided to you by HealthPort. No other additions or changes to copy or layout are permitted without the prior written approval from the HealthPort Marketing Department. If you fail to comply with this paragraph, we may immediately terminate this Agreement.
- d. You agree that you may only use advertising materials supplied by us.
- e. You may not permit HealthPort advertising to be used for any other purpose, or by any other person other than you.
- f. Except as permitted by this Agreement, you may not state or imply that you have ownership, control or any other interest in HealthPort. You acknowledge and agree that any marketing materials referring to HealthPort or HealthPort owned applications, as well as any other tangible forms for HealthPort’s advertising and marketing materials, shall remain the sole property of HealthPort, and may only be used as authorized by us. You agree to return such forms and materials immediately to HealthPort upon request.
- g. You agree that you shall not use HealthPort’s or any application owned by HealthPort copyrighted materials including but not limited to logos, service marks, domain names, symbols or any other name or mark of HealthPort without our prior written consent, other than in providing the services under this Agreement. You may not use HealthPort as a reference or this Agreement as endorsement of your work without our written consent. The parties will cooperate to create any and all appropriate public, promotional announcements or press releases relating to the relationship set forth in this Agreement. Neither party shall make any public announcement regarding the existence or content of this Agreement without the other party’s prior written approval and consent.

1.10 E&O Insurance

While this Agreement is in effect, you agree to maintain errors and omissions (“E&O”) liability insurance, with a liability insurance carrier admitted in California, or at least \$1,000,000 per claim and \$1,000,000 aggregate coverage. This insurance must specifically cover your activities under this Agreement. You agree to submit proof of your E&O liability coverage to HealthPort upon execution of this Agreement, upon any change in your E&O carrier, upon any change to your current insurance policy and upon our request thereafter.

You agree to make all reasonable efforts, consistent with the advice of your counsel and the requirements of your E&O liability insurance carrier, to coordinate the defense of all claims in which we are named as a defendant or could possibly be named. This Section 1.10 shall survive termination of this Agreement for any reason.

1.11 Indemnification

- a. You agree to indemnify and hold us harmless from any and all liability, losses, costs, damages or expenses, including reasonable attorney’s fees, arising out of or relating to: (i) any breach or failure by you or your associates to comply with the terms or conditions of this Agreement and all applicable laws; (ii) any dispute between you and your associates, or between you and your associates and client, subscriber or contract holder with HealthPort, arising out of or relating to you and/or your associates’ acts, errors or omissions; or (iii) any act or incident of fraud, malpractice, negligence, misrepresentation, defamation or intentional misconduct caused or alleged to have been caused by you or your associates.

- b. We agree to indemnify and hold you harmless of any and all liability, losses, costs, damages or expenses, including reasonable attorney's fees, arising out of or relating to our breach or failure to comply with the terms of this Agreement. We do not assume any responsibility to defend you against your acts, errors or omissions.

Article II: Commissions and Rights Reserved to HealthPort

2.1 Commissions

In consideration for the services to be performed by Broker, HealthPort agrees to pay Broker at the rates in Addendum I. Broker shall be paid within a reasonable time after the Broker submits an invoice to the HealthPort.

- a. HealthPort will pay the commission due under this Agreement within thirty (30) days following the end of each calendar month. You acknowledge and agree that we have the right to offset any commissions to which you are entitled to by the amount of any funds under your control, which belong to us, or by the amount of any other debt(s) you owe us.
- b. Commissions will be paid pursuant to the terms and conditions of this Agreement, and our policies and procedures relating to such commissions. We will be under no obligation to reimburse you for other costs, fees, including application fees, or expenses unless expressly approved by us in advance, in writing.

2.2 Commissions Upon Retirement; Upon Death

- a. Commission upon retirement: This Agreement terminates upon your retirement. Upon retirement, you shall give us written notice of your retirement date and the effective date of such termination shall be the date of retirement set forth in your notice of retirement to HealthPort. HealthPort shall pay 100% of Commission if you continue to fulfill your obligations under Section this Agreement and continue to service your existing book of business.
- b. Commission upon death: Commission rights are non-transferable upon death; all commissions will immediately and automatically terminate upon death

2.3 Loss of Commissions

You acknowledge and agree that our payment of any commissions to you will terminate immediately if any of the following occur:

- a. You fail to immediately remit to HealthPort any funds receive on our behalf;
- b. You shall at any time (after termination of this Agreement) be indebted to HealthPort for more than sixty (60) calendar days;
- c. You purport to act, or represent that you are entitled to act, in any way on behalf of HealthPort;
- d. You commit an act of fraud, dishonesty or moral turpitude, or breach any fiduciary duty;
- e. You do anything that would have been a breach of this Agreement during the term of this Agreement.

In addition, you acknowledge and agree that in the event of any of the foregoing, we may immediately terminate this Agreement.

2.4 HealthPort's Authority and Rights Regarding Client Contracts

You agree that HealthPort retains all rights and obligations contained within the HealthPort Contracts issues to your clients, and that you will take no action that interferes with or limits those rights and obligations. You acknowledge and agree that only HealthPort has the authority to:

- a. Approve and issue HealthPort Mindboost Employee Wellness Program contracts;
- b. Change subscription pricing, conditions or terms of any application, HealthPort service contract or any document issued by us;
- c. Waive or change the terms or conditions regarding all services provided by HealthPort;

d. Accept client contracts. We reserve the right to reject any contract submitted.
The Section 2.4 shall survive the termination of this Agreement for any reason.

Article III: Term; Termination; Effect of Termination

3.1 Term

This Agreement replaces all other written or oral agreements and shall be effective on the last date a party executes this Agreement and shall continue thereafter until terminated in accordance with this Agreement. Commission rates to which you are entitled for HealthPort service contracts issued under prior executed Broker's Agreements and "Schedules of Commissions" will not change.

3.2 Termination Without Cause

- a. Either party may terminate this Agreement without cause at any time by giving written thirty (30) day's prior notice to the other party.
- b. Upon termination, you will no longer be authorized to market, solicit for HealthPort Contracts and you will no longer have access to the Mindboost Broker Portal.
- c. Upon termination of this Agreement, we will revoke access to information on the Mindboost Broker Portal.
- d. Upon termination of this Agreement, we, at our sole discretion, may respond to reasonable and lawful inquiries (i) on behalf of a Client or User; or (ii) for other legitimate business purposes.
- e. The effective date of the termination shall be the first day of the month following the 30-day notice period, unless said notice specifies a later termination date.
- f. If this Agreement is terminated without cause pursuant to this Section 3.2, we shall continue paying commission to you following such termination subject to the terms and conditions contained in Section 2 above.

3.3 Termination for Cause

- a. We may terminate this Agreement immediately upon written notice to you at any time for your breach of this Agreement (including any amendments or addendum thereto), commission of any act of fraud or dishonesty, or breach of any fiduciary duty arising from or relating to this Agreement. The right to terminate this Agreement for cause shall be cumulative with all other remedies available to HealthPort by law or in equity.
- b. We may terminate this Agreement immediately upon written notice to you for your failure to comply with any applicable rules and regulations of HealthPort, U.S. Department of Labor, State and Federal laws or government body which regulates HealthPort.
- c. Either party may terminate this Agreement immediately should the other party voluntarily file a petition in or for bankruptcy, reorganization or an arrangement with creditors; make a general assignment for the benefit of creditors; be adjudged bankrupt; be unable to pay debts as they become due; have a trustee, receiver or other custodian appointed on its behalf; or should any other dissolution or liquidation proceeding be commenced against it.
- d. In addition to any other termination rights either party may have under this Agreement, if HealthPort determines that you have committed a material breach of this Agreement pertaining to the use or disclosure of PHI, HealthPort shall either:
 - i. Provide an opportunity for you to cure the breach or end the violation and terminate this Agreement if you do not cure the breach or end the violation within the time specified by HealthPort; or
 - ii. Immediately terminate this Agreement if HealthPort determines cure is not possible. A failure to terminate for cause shall not be a waiver of the right to do so with respect to a failure breach. If this Agreement is terminated with cause pursuant to this Section 3.3, we shall discontinue paying commissions to you following such termination.

- e. Upon termination of this Agreement:
 - i. we will revoke access to information on the Mindboost Broker Portal; and
 - ii. we, at our sole discretion, may respond to reasonable and lawful inquiries (i) on behalf of a Customer or User; or (ii) for other legitimate business purposes.

3.4 Continuing Obligations

Upon termination of this Agreement, you agree to immediately remit to HealthPort all funds belonging to us or held for HealthPort's account, and to forward to us all records, contracts and property that belong to HealthPort.

Article IV: General Provisions

4.1 Confidentiality

You agree that you will keep confidential and not disclose any confidential or proprietary information of ours, regardless of how the information was obtained, to any third party, except as required by law, and shall not use such information other than as is permitted by this Agreement. Such confidential or proprietary information includes, but is not limited to, names of contracted organizations, number of users, subscription fees, revenues, and all business operation information regarding HealthPort and its programs. This section 4.1 shall survive termination of this Agreement for any reason.

4.2 Association Disclosure

You hereby expressly acknowledge your understanding that this Agreement constitutes a contract between you and HealthPort, that HealthPort is an independent corporation. You further acknowledge and agree that you have not entered into this Agreement based upon representations by any person other than HealthPort and that no person, entity or organization other than HealthPort shall be held accountable or liable to you for any of HealthPort's obligations created under this Agreement. This Section shall not create any additional obligations whatsoever on the part of HealthPort other than those obligations created under other provisions of this Agreement.

4.3 Fiduciary Obligations of Broker

You agree that in performing under this Agreement, you are acting in a fiduciary capacity to HealthPort.

4.4 Governing Law

This Agreement will be governed by California law, without regard to its conflict of laws, provisions or, as applicable, federal law.

4.5 Prevailing Party

The prevailing party in any dispute arising out of this Agreement shall be entitled to recover reasonable attorney's fees and court costs in addition to any other relief to which they are entitled.

4.6 No Assignment of Agreement

You may not make any assignment of this Agreement or of its rights or benefits hereunder, whether by merger, asset sale, operation of law or otherwise, without the prior written consent of HealthPort. Any attempted assignment of this Agreement shall be void unless prior written approval is obtained from HealthPort. You acknowledge that, in the event of all or substantially all of HealthPort's assets and liabilities are acquired by another entity, the acquiring entity would have the right (but not the obligation) to assume this Agreement. In the event of such an acquisition, HealthPort's obligation to pay commissions under this Agreement shall terminate as of the effective date of the acquisition.

4.7 Change in Information

You agree to notify HealthPort of any changes to your name, address, telephone number, fax number, email or other similar information. Such notice shall be updated in your Mindboost Broker Account, under profile.

4.8 Notice Procedure

Notice shall be deemed delivered by email, by courier, or by U.S. mail, addressed to the below address for HealthPort, or to the physical address you list on the signature page you submit to HealthPort (or any updates you request thereafter). Notices delivered by mail shall be deemed delivered five (5) days after the date it was mailed. Delivery by courier shall be deemed to occur upon delivery to the physical address of HealthPort below or to the physical address you list on the signature page you submit to HealthPort. Notices delivered by email shall be deemed to have been received on the date of successful transmission thereof if received during normal business hours or otherwise on the next business day following its receipt with proof of delivery held by the sending party.

If sent to HealthPort:

HealthPort, Inc.

16 Technology Drive, Suite 200

Irvine, CA 92618

Attn: Mindboost Broker Program Department

Email: brokersupport@mindboost.com

4.9 Amendment

This Agreement, including any addenda or exhibits thereto, may be amended by HealthPort upon thirty (30) days' prior written notice to you and delivered as set forth in Section 4.8. Such notice shall contain notification of sections changed and instructions on where to view the full document (such as online on the Mindboost Broker portal). This Section 4.9 shall not apply to amendment of or modification to commissions as set forth in Section 2.1 of this Agreement. Except when mutually agreed between HealthPort and the Broker, or when required by applicable law, amendments to this Agreement, including addenda and exhibits, concerning the following will be made upon forty-five (45) days' prior written or electronic notice:

- (1) Commissions, bonuses and incentives paid to the Broker;
- (2) Right of survivorship;
- (3) Indemnification of the Broker by HealthPort; or
- (4) Errors and omissions coverage requirements for the Broker

4.10 Entire Agreement

As of January 1, 2022, this Agreement replaces and supersedes any and all other Broker's or Sales Associates' agreements, including representations or understandings between or among any of the parties or their predecessors regarding the subject matter contained herein. In the event of any conflict between such previous agreements and this Agreement, this Agreement shall govern. This Agreement constitutes the entire understanding of the parties hereto with respect to the subject matter hereof, and supersedes any and all prior agreements, representations or understandings, whether written or oral, express or implied with respect to that relationship. No agreements related to the subject matter of this Agreement that are not set forth herein (or in a written modification of this Agreement) shall be of any force or effect.

4.11 Waiver

It is understood and agreed that no failure or delay by either party in exercising any right, power or privilege hereunder in any one or more instances or to insist on strict compliance with the performance of this Agreement or to take advantage of any respective rights shall operate as a waiver thereof or the relinquishment of such rights in other instances, but the same shall continue and remain in full force and effect, nor shall any single or partial exercise thereof preclude any other or further exercise thereof, or the exercise of any right, power or privilege hereunder.

4.12 Severability

If any provision of this Agreement is deemed to be invalid or unenforceable by a court of competent jurisdiction, the same shall be deemed severable from the remainder of the Agreement and the parties agree to renegotiate such provision in good faith, in order to maintain the economic position enjoyed by each party as close as possible to that under the provision rendered unenforceable. In the event that the parties cannot reach a mutually agreeable and enforceable

replacement for such provision, then (i) such provision shall be excluded from this Agreement, (ii) the balance of this Agreement shall be interpreted as if such provision were so excluded and (iii) the balance of this Agreement shall be enforceable in accordance with its terms.

4.13 Force Majeure

Neither party shall be liable, and its performance shall be excused, for any delays resulting from circumstances or causes beyond its reasonable control, including, without limitation, fire or other casualty, act of God, strike or labor dispute, war, sabotage, terrorism, acts of aggression or other violence provided such party shall have used its commercially reasonable efforts to mitigate its effects and has given prompt written notice to the other party. The time for the performance shall be extended for the period of delay or inability to perform due to such occurrences up to a period of five days at which time the party unaffected by the Force Majeure event may immediately terminate this Agreement.

4.14 Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, and all of which together constitute one agreement.

4.15 Interpretation

In the event any dispute arises in regard to the interpretation of any term or condition of this Agreement, the parties agree that the drafting of this Agreement shall not be deemed that of one party or their agent or the other party or its agent, and that any rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be applicable.

(Signature page to follow)

HealthPort looks forward to a rewarding association with you.

Please complete and sign this page, keep a copy for yourself and email this packet including a copy of your errors and omissions liability insurance coverage and a W9 to brokersupport@mindboost.com

Items marked with an asterisk () are required fields.

*First Name:	*Last Name:	
Company Name:	*TIN or Social Security Number:	
*Phone Number:	*Email:	
*Physical address:		
*City:	*State:	*Zip:
Mailing address (if different from physical address)		
City:	State:	Zip:

By signing below, you have read and agree to this Broker Agreement.

*Broker Signature

*Date

HealthPort

By

Printed Name

Title

Date

Exhibit A:
Commission Structure

The Mindboost Employee Wellness Program rate for employers is \$1.50 per eligible employee, per month. Broker commission rate is 20% which is a set rate of \$0.30 per eligible employee, per month. See sample commission payouts below.

<i>Number of Employees</i>	1,000	5,000	10,000	25,000
<i>Monthly Commission Payout</i>	\$300	\$1,500	\$3,000	\$7,500
<i>Yearly Commission Payout</i>	\$3,600	\$18,000	\$36,000	\$90,000