

CareFirst BlueCross BlueShield
10455 Mill Run Circle, Owings Mills, Maryland 21117-5559 (410) 581-3000

BROKER/AGENT AGREEMENT FOR INDIVIDUAL MARKET PRODUCTS

THIS AGREEMENT is made this ____ day of _____, **200**__, BETWEEN **GROUP HOSPITALIZATION & MEDICAL SERVICES, INC. AND CAREFIRST OF MARYLAND, INC. HEREINAFTER REFERRED TO AS “INSURER”** AND _____ **HEREINAFTER REFERRED TO AS “CONTRACTOR”**, (name of Licensed Broker/Agent or Brokerage/Agency - - hereinafter sometimes referred to as “Broker”, “Agent” or “Broker/Agent”),

(Business Address) _____

(City), _____ (County), _____ (State), _____ (Zip Code), _____

(Contractor E-mail Address): _____

(Business Phone Number) () _____ - _____, (Business Fax Number) () _____ - _____,

also doing business as _____.

SHALL BE EFFECTIVE the **1st** day of _____, **2007**.

INSURER and CONTRACTOR agree as follows:

I. DEFINITIONS

The definitions for all terms used herein are found in the CareFirst Broker Administrative Manual as amended from time to time.

II. DUTIES AND LIMITATIONS OF AUTHORITY OF THE CONTRACTOR

A. Jurisdiction and Products:

Individual Market: Contractor is authorized by **Insurer** to solicit applications in the jurisdictions approved by **Insurer** and for the Products listed on Exhibit A.2, Individual Market Schedule of Fees and Bonuses *and* Request For Statutory Appointment, for Individual Market Benefit Contracts, to

forward them to **Insurer** for acceptance or rejection. For authorized Products, Contractor is authorized to collect the initial Premium due on an application. The determination of whether an application is accepted; whether a Benefit Contract shall actually be issued; or the type of Benefit Contract to be issued shall be solely within the discretion of **Insurer**.

- B. **Insurer** may prescribe Rules as it may deem reasonable and necessary. **Insurer** may alter or amend such Rules from time to time. Contractor agrees to observe, conform to and act in accordance with such Rules.
- C. Contractor shall have no authority to bind the **Insurer** on any application for, or policy and/or contract of, insurance, or bind the **Insurer** by any agreement, contract, representation or promise made.
- D. Contractor agrees that **Insurer** will be held harmless for any liability that results from misrepresentation or any other error or omission by Contractor or Contractor's Producing Agents.
- E. Contractor shall be responsible to **Insurer** for the fidelity and honesty of its Producing Agents. Contractor shall be responsible for all **Insurer** premium collected by Producing Agent for **Insurer** business entrusted to Contractor's Producing Agents.
- F. Contractor shall have no authority to extend time of payment of Premium, to waive or extend any obligation or condition of any Group Contract issued by **Insurer** or to incur any liability on behalf of **Insurer**.
- G. Neither this Agreement nor the authority conferred hereunder is transferable or assignable by Contractor unless **Insurer** has provided prior written consent thereto to Contractor. Transfer or assignment of Broker/Agent Fee, or Bonus, is prohibited unless **Insurer** has provided prior written consent thereto to Contractor. **Insurer** may assign this Agreement to any affiliate, subsidiary or successor in interest without the consent of Contractor.
- H. Contractor shall make no representations with respect to any product(s) or forms of health care coverage which may be applicable to any program(s) administered and marketed by or through **Insurer** except as may be contained in the written material prepared and furnished to Contractor by or through **Insurer**. Contractor shall make no oral or written representations, alterations, modifications or waiver of the terms or conditions applicable to that product or coverage without the express prior written consent of **Insurer**.
- I. Contractor agrees to fulfill the performance criteria as specified by **Insurer** including as specified by **Insurer** Rules. These criteria are subject to review and modification by **Insurer** and may be amended by **Insurer** by giving reasonable notice to Contractor. Contractor's failure to fulfill Rules or the performance criteria may, at **Insurer's** discretion, constitute cause for termination of this Agreement.
- J. Contractor warrants and represents that it is and shall remain in compliance with any and all federal, state and local laws including but not limited to the Health Insurance Portability and Accountability Act (HIPAA), the U.S. Patriot Act, and the Employee Retirement Income Security Act (ERISA). Further, Contractor agrees that it shall comply with any reasonable requests made by **Insurer** to assure continued compliance in the future with any such laws.

III. BROKER/AGENT FEES

- A. **Insurer** agrees to pay Broker/Agent Fees in accordance with the terms of the attached Schedules of Fees. **Insurer** may amend the Broker/Agent Fees provided for in the Schedule of Fees by giving thirty (30) days notice to Contractor.
- B. No Broker/Agent Fee or Bonus shall be payable to a non-appointed Contractor or Producing Agent.
- C. Premium Payments:
Individual Market: Broker/Agent Fees due hereunder shall be earned and payable monthly to Contractor for Individual Market Benefit Contracts issued and for which the Premium has been paid to and earned by **Insurer** as long as this Agreement is in effect and Contractor is recognized by **Insurer** as Broker/Agent of Record.
- D. **Insurer** reserves the right to determine which Premiums and contracts paid by the Group or Subscriber are subject to payment of Broker/Agent Fees.
- E. If any Premium should be refunded by **Insurer** for any reason or cause either before or after termination of this Agreement, Contractor shall repay to **Insurer**, on demand, all Broker/Agent Fees and Bonuses previously allowed and paid on the refunded Premium or associated paid contracts. At **Insurer's** discretion, such repayment may take the form of credit or offset, but is not limited to a direct payment or an adjustment to future Broker/Agent Fee and Bonus payments.
- F. Any indebtedness of Contractor to **Insurer** arising from this Agreement, any prior Agreement or any transaction between Contractor and **Insurer**, shall be a First Lien on any compensation (including Broker/Agent Fees and/or potential incentive payments and Bonuses) due or to become due the Contractor under this Agreement and may be applied as a set-off against any moneys due or which become due by **Insurer** to Contractor.
- G. This Agreement shall not be construed to allow Broker/Agent Fees or Bonus eligibility for any premiums or paid contracts where Contractor's services were performed on a consultant basis and the Contractor agrees to accept compensation from the Group for such services.

IV. ADVERTISING

- A. Circulars, advertisements or other materials containing **Insurer** symbols, service marks, trademarks or trade names, shall not be published, printed, distributed or used in any way by Contractor until approval is obtained in writing from **Insurer**.
- B. **Insurer** may or may not allow Contractor to participate in advertising campaigns on a joint basis where it is deemed appropriate by **Insurer**. The cost of such joint campaigns may be shared through a cooperative arrangement that is approved by **Insurer**.

V. TERMINATION

A. Contractor or **Insurer** may terminate this Agreement **without cause** at any time by giving thirty (30) days' written notice to the other party of such termination. Termination shall take effect immediately and automatically upon the date stated in the notice so given.

For Individual Market Benefit Contracts/business, after termination notice is given, **Insurer** will not recognize any new **Insurer** business for Contractor. If termination is without cause, Broker/Agent Fee shall continue to be payable for a period of 1 (one) year from the date of termination so long as the terminating broker/agent maintains a health license in full force and effect, remains the Broker of Record, and so long as the accounts for which Broker/Agent Fees are eligible remain with **Insurer**.

B. **Insurer** may terminate this Agreement immediately **for cause** and no Broker/Agent Fee or Bonus shall accrue on or following the effective date of such termination. Contractor and any Producing Agent(s) will immediately cease to be recognized by **Insurer** as a Broker of Record on all accounts and Contracts. The following events/occurrences will constitute cause for termination:

1. Commission of fraudulent acts or failure to comply with applicable law;
2. Failure to maintain current errors and omissions coverage in an amount that is appropriate for the size and nature and business engaged in by Contractor and consistent with Exhibit B, Requirements for Errors and Omissions Insurance. When requested, proof of coverage must be immediately supplied by Contractor to **Insurer** according to **Insurer** procedures and instructions that may include a third party administrator;
3. Wrongful use, withholding or commingling of any funds belonging to an applicant, Subscriber, Group or **Insurer**;
4. If the Contractor is a natural person, the death of the Contractor. This Agreement may be terminated immediately without notice upon the death of the Contractor if an individual, and no Broker/Agent Fees or Bonuses shall be payable to heirs, successors or assigns of the decedent;
5. Termination, expiration or suspension of Contractor's or Producing Agent's health license as required by law;
6. Commission of any knowing or intentional act that interferes with the business relationship between **Insurer** and any of its customers, accounts and/or employees, except where Contractor is acting in accordance with good business practices and in the interest of Contractor's client;
7. Commission of any knowing or intentional act that interferes with the business relationship between **Insurer** and any of its Brokers and/or Agents.
8. Refusal to participate in and/or conduct training as specified in Sections II. and VII. hereof and training as may be requested by **Insurer**;
9. Failure to follow reasonable instructions of **Insurer** including, but not limited to, collection and/or payment of premium;
10. Knowing and intentional violation of any provision or the intended purpose or essence of this Agreement.

C. In the event of *suspension* of the health license as required by law, this Agreement shall terminate for cause, and **Insurer** may consider reinstatement after the suspension period. Whether or not

reinstatement of this Agreement shall occur will be solely at the discretion of **Insurer** after the submission and approval of a new Broker/Agent application and upon such terms and conditions as may be prescribed by **Insurer**.

- D. In the event of termination of this Agreement, **Insurer's** right to mail or deliver notices and statements to Groups and Individual Market Subscribers shall continue. **Insurer** further reserves the right to continue solicitation of Groups and Individual Market Subscribers for both new and renewal Contracts.
- E. This Agreement may be assigned by **Insurer** to any affiliate of **Insurer** to which it transfers its sales and/or marketing functions or with which it contracts to provide sales and/or marketing functions. In the event of such assignment, this Agreement shall be amended appropriately by the parties.
- F. **The term of this Agreement shall be for a period of one (1) year** and shall be automatically renewed for successive one-year periods unless terminated earlier by either party upon prior written notice to the other party as provided herein.

VI. GENERAL

- A. It is mutually understood that solicitation of applications for Group and/or Individual Market Benefit Contracts for the benefit of **Insurer** is the essence of this Agreement, and failure of Contractor to provide such solicitation is detrimental to **Insurer**.
- B. Each party hereby expressly agrees to indemnify and save harmless the other from and against any and all claims, loss, damage, injury, expense and liability arising out of or resulting from, or in any way connected with matters arising under this Agreement or by any negligence or willful misconduct on the part of the indemnifying party or its agents or employees. Damages may include, but are not limited to, compensatory, punitive, court costs, and attorney fees.
- C. This Agreement does not, nor is it intended to, in any way create a relationship of joint venture, partnership, principal and agent or employee/employer between Contractor and **Insurer**.
- D. Contractor shall permit any duly authorized representative of **Insurer**, from time to time during normal business hours, to have access to and the right to examine and copy any and all books, documents, papers and other records of Contractor that relate to Group Contracts placed by Contractor with **Insurer**.
- E. **Insurer** shall retain an absolute right to contact the Group and/or Subscriber directly for any purpose at **Insurer's** discretion. Every effort will be made to keep Contractor informed of any such contacts.
- F. **Insurer** and Contractor agree to safeguard, maintain and preserve the confidentiality of this Agreement during the life of the Agreement and after termination. At no time may the provisions or terms of this Agreement be disclosed to a third party, nor may any proprietary information obtained by Contractor from **Insurer** or vice versa be disclosed to any other person by either party without the prior written consent of the other party. Such proprietary **Insurer** information includes, but is not limited to, information on any applications for **Insurer** health insurance coverage.
- G. The only payment due under this Agreement from **Insurer** to Contractor shall be for Broker/Agent Fees and applicable bonuses and not for any other expenses or costs incurred by Contractor.

- H. Contractor agrees, upon **Insurer's** request, to provide **Insurer** with any and all information reasonably requested by **Insurer**. Such information may include, but is not limited to, Contractor's structure, qualifications and right to do business.
- I. This Agreement shall be governed by and construed in accordance with the laws of the state of Contractors' health/life license.
- J. **Contractor agrees not to assign, transfer, or attempt to assign or transfer any of its obligations under this Agreement without the prior written approval of Insurer.**

VII. MISCELLANEOUS

- A. This Agreement constitutes the full and entire understanding of the parties and supersedes any and all prior representations, statements, or agreements between them.
- B. This Agreement may be modified or amended only in writing by an authorized Officer of **Insurer**. Requests and notices shall be sent to the **Insurer** representative identified in Section VII.G. hereunder.
- C. If any part, term or provision of this Agreement shall be held void, illegal, or unenforceable, the validity of the remaining portions or provisions shall not be affected thereby.
- D. Failure of either party at any time to require performance of any of the provisions or obligations created under this Agreement shall in no way affect the right of either party thereafter to enforce the same. The waiver by either party of any violation or breach of the provisions or obligations under this Agreement shall not be taken or held to be a waiver of any succeeding violation or breach of a provision or obligation or as a waiver of the provision or obligation itself.
- E. Each signatory hereto certifies and warrants that all necessary authority and approvals have been obtained and that this Agreement is validly executed by an authorized officer or agent and is binding upon such party and enforceable in accordance with its terms.
- F. If Contractor becomes liable to **Insurer** at any time, the **Insurer** shall have the right to withhold any and all sums from any payment as a withhold of sums that may be due or become due including any Broker/Agent Fees and Bonus amounts.
- G. All notices pertaining to this Agreement shall be in writing unless otherwise agreed to by both parties, shall be sent by first-class mail, postage paid, addressed to:

For Insurer:

Ms. Dana Reeves

Director, Broker Relations

CareFirst BlueCross BlueShield

10455 Mill Run Circle, MailStop: OM1-560

Owings Mills, Maryland 21117-5559

For Contractor:

CODE OF CONDUCT

The Contractor (Agent) herein has received a copy of and understands the Model Code of Business Conduct and Compliance Program for **Insurer** and agrees to comply with its policies and principles in the performance of any duties for **Insurer**. The Agent also agrees not to disclose or use at any time, either during or after termination of the Agreement, any proprietary and confidential information acquired or developed during the course of the Agreement. The Agent further agrees to report to **Insurer** any criminal or unlawful acts that occur while conducting the business of **Insurer** and involving employees or contractors employed by **Insurer** or employed by the Agent.

EQUAL EMPLOYMENT OPPORTUNITY

Insurer is an Equal Employment Opportunity and Executive Order #11246 Affirmative Action Employer and hereby incorporates by reference, the Equal Employment Opportunity clause set forth in 41 CFR-60-1.4; 60-250.4; and 60-741.4 **Insurer** supports a policy which prohibits discrimination against any employee or applicant for employment, on the basis of age, race, sex, color, national origin, religion, physical or mental disability, veteran status or any other classification protected by law or ordinance. Contractor/Vendor agrees that it is in full compliance with this Equal Employment Opportunity statement as expressed herein.

THE VIOLENT CRIME CONTROL ACT OF 1994

Contractor (Agent) shall adhere to and comply with the **Federal** Insurance Fraud Provisions of the Violent Crime Control Act (18 USC Sec. 1033 *et. seq.*) in the performance of this Agreement.

IN WITNESS WHEREOF, the parties, by their duly authorized representatives, have signed this Agreement in acknowledgment thereof.

CONTRACTOR Name (Print) _____

CONTRACTOR Social Security No. (or Taxpayer I.D. if agency/brokerage): _____

Network Provider Number: _____

Maryland License Number: _____ **Expiration Date:** _____

District of Columbia License Number: _____ **Expiration Date:** _____

Virginia License Number: _____ **Expiration Date:** Perpetual

If Contractor is an Agency or Brokerage, list below the "Responsible Individual" (or "principal and primary decision maker"). *Note: In Maryland and in the District of Columbia, the person we request be identified below is the same person that the Contractor designated as their "responsible individual" on their state licensing forms. In Virginia and in Delaware, the person is commonly referred to as the "principal and primary decision maker" for agencies and brokerages.*

"Responsible Individual" Name (Print): _____

"Responsible Individual" Social Security No.: _____

Maryland License Number: _____ **Expiration Date:** _____

District of Columbia License Number: _____ **Expiration Date:** _____

Virginia License Number: _____ **Expiration Date:** Perpetual

FOR CONTRACTOR:

By (*signature of Contractor*) _____

Date: _____

Printed Name: _____

Title: _____

Witness: _____

At time of application of this Agreement, prospective Contractor shall provide copies of all health/life licenses (e.g., Maryland, District of Columbia, and Virginia) for itself and for all its Producing Agents. **On a continuous basis,** Contractor is responsible to provide **Insurer** with copies of all active health/life licenses for itself and for Producing Agents (e.g., for newly hired Producing Agents; new licenses for existing Producing Agents, etc.). Contractor must furnish **Insurer** with immediate notice of all new or terminated, suspended or expired health licenses for all Producing Agents and Individual Market Sub-Broker/Agents of Contractor. Notice shall be furnished to **Insurer's** Broker Contracting & Compliance department.

FOR INSURER:

By: _____

Date: _____

Printed Name: Michael J. Felber

Title: Senior Vice President, Sales

Witness: _____

EXHIBITS

BROKER/AGENT AGREEMENT FOR *INDIVIDUAL MARKET* PRODUCTS

Exhibit A.1

(Does Not Appear Herein)

Group Market Schedule of Fees and Bonuses

Exhibit A.2

***Individual Market Schedule of Fees and Bonuses
and Request for Statutory Appointment
(Please refer to Broker Administrative Manual)***

Exhibit B

Requirements for *Errors and Omissions* Insurance

EXHIBIT B

**REQUIREMENTS FOR
ERRORS & OMISSIONS INSURANCE**

FOR GROUP-MARKET AND INDIVIDUAL-MARKET CONTRACTORS

Contractor shall submit to Insurer evidence of errors and omissions coverage with a minimum **One Million Dollars (\$1,000,000.00) per occurrence and One Million Dollars (\$1,000,000.00) aggregate.** Errors and omissions policy shall provide for coverage for duties and responsibilities set forth in this Broker/Agent Agreement. If the aforementioned policy is written on a claims-made basis, the retroactive date of the policy, if any, shall precede or be concurrent with any prior periods in which Broker/Agent had an in-force Broker/Agent Agreement with **Insurer**.

A *Certificate of Insurance* (or other evidence acceptable to **Insurer**) shall be submitted and attached to this Agreement and furnished to **Insurer** as evidence of coverage. At time of Broker/Agent Agreement application to **Insurer**, and upon request by **Insurer**, proof of coverage must immediately be supplied to **Insurer** according to **Insurer** procedures and instructions that may include a third party.

Broker/Agent shall submit a **Certificate of Insurance** evidencing current errors and omissions insurance with a carrier having an A.M. Best rating of not less than A-. The Certificate of Insurance shall contain a **Cancellation Provision of not less than Thirty (30) days.**