

The logo for Blue Cross & Blue Shield of Rhode Island consists of a blue rectangle on the left and a green parallelogram on the right, separated by a white diagonal line.

Blue Cross & Blue Shield  
of Rhode Island

## ***Agent Contracting Checklist***

**Commission payable to the broker/agency you will need:**

- 
- Medicare Application
  - W-9
  - Blue Cross & Blue Shield of Rhode Island Medicare Broker Agreement
  - Individual Broker License (Rhode Island) or Non-Resident License
  - Broker Confidentiality Agreement
  - Copy of E&O Policy
  - EFT Authorization (optional)
- 

***All forms must be completed and signed. Broker contract must be active before any commissions will be issued.***

Return completed contracting material to us via email or fax:

Email: [contracting@garityadvantage.com](mailto:contracting@garityadvantage.com)  
Fax: 339-469-8155

# Broker Medicare Application



**Please print or type. All fields must be complete and legible.**

<b>Individual Information (All fields required for all Broker Medicare Applications.)</b>			
Legal Name (as it appears on Individual Resident State insurance license)			
Last	Middle	First	
Social Security Number (xxx-xx-xxxx)	Birth Date (mm/dd/yyyy)	Alias/Other Names	
Resident Address			
City	State	County (FL only)	ZIP Code
Resident Phone Number	Business Phone Number	Fax number	
Email Address			
<b>Agency Information</b>			
Corporation Name		Principal	
Corporate Tax ID		Business Phone	
Business Address			
City	State	County	ZIP Code
Commission payable to: <input type="checkbox"/> Broker <input type="checkbox"/> Agency _____ <div style="text-align: right;">(Agency Broker ID)</div>			
<b>Errors and Omissions Coverage (\$1,000,000 annual aggregate required.)</b>			
<b>An active policy declaration page with your name listed as the covered entity must be attached.</b>			

**Note:** Failure to accurately and honestly answer any of the following questions may result in a declination of your application and appointment with BCBSRI. If you answer "Yes" to any of these questions, please provide supporting documentation and a brief explanation on the next page of this form.

### Criminal Background Information

1. Have you ever been convicted of a felony? .....  No  Yes
2. Have you ever been convicted of a misdemeanor (other than traffic), including an alcohol- or drug-related offense? .....  No  Yes
3. Have you had your driver's license revoked within the past three years? .....  No  Yes

### Department of Insurance and CMS

4. Have you ever had your insurance or securities license revoked and/or suspended by any department of insurance (even if later reinstated) for any reason? .....  No  Yes
5. Is your insurance license currently restricted or under investigation? .....  No  Yes
6. Have you ever had a complaint reported against you (even if dismissed) by a consumer and/or insurance company for any reason with any department of insurance, FINRA, or other regulatory reporting agency, including CMS?  No  Yes
7. Have you ever paid a fine related to a consumer complaint, failure to renew your license, or continuing education credit in excess of \$500? .....  No  Yes
8. Have you ever been excluded, or are you aware of actions that could result in an exclusion, by the Office of Inspector General from participation in a government healthcare program, including Medicare or Medicaid? .....  No  Yes

### Credit History

9. Have you filed for bankruptcy and/or had a bankruptcy discharged within the last five years? .....  No  Yes
10. Are you, at the present time, or have you been within the past five years, involved in any civil litigation related to the insurance business, judgments, liens, or foreclosures? .....  No  Yes
11. Are you, at the present time, or have you been within the past five years, reported as delinquent on state or federal taxes? .....  No  Yes

### Other Companies

12. Have you ever been denied an appointment with any insurance company? .....  No  Yes
13. Have you ever been terminated for cause by an insurance carrier? .....  No  Yes
14. Have you been denied a bond or application for errors and omissions (E&O) coverage with any company? .....  No  Yes

### Other

15. Do you have other information related to criminal, insurance-related complaints, credit, etc., that was not covered by these questions that you wish to disclose? ...  No  Yes

Broker Medicare Application	Last Name
<b>Please provide an explanation for any "Yes" answers on the previous page in the corresponding sections below.</b>	
Criminal Background Information	
Department of Insurance and CMS	
Credit History	
Other Companies	
Other	

Broker Medicare Application

Last Name

### Conditions and Agreements

I have thoroughly reviewed this application and have answered all questions to the best of my knowledge. By signing below, I hereby attest to all matters set forth above and agree to all matter set forth below.

I hereby agree that if and when BCBSRI issues to me any Agreement(s) for which I hereby apply, I will be bound by such Agreement(s). Submitting to BCBSRI any application for insurance products, including but not limited to Medicare Advantage ("Products"), shall constitute my agreement to such Agreement(s) and all the terms, conditions, and provisions set forth therein.

I acknowledge that by signing this Broker Medicare Application and submitting any such insurance application for a Product, I have so agreed to the Agreement(s) and no future signature by me shall be necessary.

I acknowledge that I must complete all required training and pass all testing to be qualified to sell Medicare Advantage.

I acknowledge that it is my duty to remain informed, review, and comply with all updates from BCBSRI.

### Disclosure

I have executed this Broker Medicare Application as evidence of the understanding and acceptance of, and consent to its terms, and I agree that I will not solicit business until I receive notification from BCBSRI that this application has been approved and I have satisfied all of the certification requirements for the Products I intend to sell.

I understand that as part of its approval process and throughout the term of my appointment with BCBSRI, the BCBSRI may obtain an investigative consumer report to confirm information regarding my character, general reputation, credit history, personal characteristics, mode of living, criminal history, insurance licensing history, Office of Inspector General records and General Service Administrator excluded party records. I hereby authorize BCBSRI to obtain such a report at any time after the receipt of this Broker Medicare Application and throughout the term of my appointment with BCBSRI. The scope of this authorization is all-encompassing, allowing BCBSRI to obtain from any outside organization all manner of investigative consumer reports now and throughout my appointment to the extent permitted by law.



Applicant's Signature

Date

**Please return all documents to your BCBSRI account representative.**



www.BCBSRI.com

500 Exchange Street • Providence, RI 02903-2699

Blue Cross & Blue Shield of Rhode Island is an independent licensee of the Blue Cross and Blue Shield Association.

## Substitute W-9 Form

### Request for Taxpayer Identification Number and Certification

Use this form only if you are a U.S. person (including U.S. resident alien). If you are a foreign person, use the appropriate Form W-8.

Federal regulations require us to obtain and report accurate Taxpayer Identification Numbers (TIN) on payees of certain types of payment we make. This information is reported each year to the Internal Revenue Service on Form 1099. If you do not provide us with this information, your payments may be subject to 28% federal income tax backup. Failure to receive and file accurate information may also be subject to a \$50 penalty imposed by the Internal Revenue Service under Section 6723.

Please provide the information requested on the bottom of this form and return it to us within 30 days. Enter your TIN in the appropriate box. The TIN provided must match the name given on Part I to avoid backup withholding. For individuals, this is your social security (SSN). For other entities, it is your employer identification number (EIN).

#### Part I - Taxpayer Identification Number (TIN) (Complete only one row of boxes)

**Individuals/  
Sole Proprietor**  
(Fill out this row)

Name (as reported on your income tax return)  _____	Social Security Number ____ - ____ - ____ or Employer Identification Number ____ - ____ - ____
-----------------------------------------------------------	------------------------------------------------------------------------------------------------------------

**Partnership  
(or an LLC with  
multiple owners):**  
(Fill out this row)

Name of Partnership (as reported on income tax return)  _____ _____	Employer Identification Number  ____ - ____ - ____
------------------------------------------------------------------------------	----------------------------------------------------------

**Corporation, or  
Tax-Exempt  
Entity:**  
(Fill out this row)

Name of Corporation (as reported on income tax return)  _____	Employer Identification Number  ____ - ____ - ____
---------------------------------------------------------------------	----------------------------------------------------------

#### Part II - Certification

I certify under penalty of perjury that: 1) The number shown on this form is my correct taxpayer identification number, and 2) I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the IRS that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding and 3) I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your return.

<b>Signature</b>		Date
Tax correspondence address:		Telephone No.
City	State	Zip Code (9 digit)
List account number(s) here (optional)		

## BLUE CROSS & BLUE SHIELD OF RHODE ISLAND

### BROKER AGREEMENT MEDICARE PLANS

THIS AGREEMENT (the "Agreement") is made by and between \_\_\_\_\_ hereinafter designated as "Broker," located at \_\_\_\_\_, and Blue Cross & Blue Shield of Rhode Island ("Blue Cross"), a Rhode Island Nonprofit Hospital and Medical Services Corporation, and will be effective the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date").

In consideration of the mutual covenants herein contained, the parties agree as follows:

1. **DEFINITIONS:** For purposes of this Agreement, the following terms shall have the meanings indicated:
  - a. CMS – the federal Center for Medicare and Medicaid Services.
  - b. Insurance Producer – a person required under Rhode Island law to be licensed to sell, solicit or negotiate insurance and/or a company employing such person(s).
  - c. Med Supp Plan - any Medicare supplement insurance product authorized under applicable federal and state laws and regulations that may now or in the future be offered to individual beneficiaries by Blue Cross.
  - d. Medicare Laws – are (i) Part C and Part D of Title XVIII of the Social Security Act and all rules and regulations related thereto adopted from time to time by CMS or any other applicable federal agency; (ii) the Medicare Prescription Drug, Improvement, and Modernization Act of 2003; (iii) all guidance, administrative guidelines, marketing guidelines, manuals, bulletins, instructions, FAQs, instructions, requirements, policies, procedures or directives published, adopted or issued from time to time by CMS or any other applicable federal agency relating to any of the foregoing; and (iv) any other laws or regulations enacted, adopted, published, followed or imposed by any governmental authority or court in respect of Medicare, Medicare Plans, or Med Supp Plans, as amended, modified, replaced, revised or interpreted from time to time.
  - e. Medicare Plan – is any Medicare Advantage Plan that is now or may in the future be offered by Blue Cross to individual Medicare beneficiaries and subject to this Agreement, including, without limitation, Medicare Advantage Plans that include prescription drug plan benefits.
  - f. Members – Medicare beneficiaries that have purchased a Medicare Plan or a Med Supp Plan from Blue Cross.

2. **BROKER'S AUTHORITY:** Broker is authorized, subject to the terms and conditions of this Agreement, to market, solicit and facilitate enrollment applications for Medicare Plans and Med Supp Plans that Blue Cross offers from time during the term of this Agreement. Nothing in this Agreement prohibits or otherwise restricts Blue Cross from (1) soliciting new business directly without going through any General Agent or Broker, or (2) having direct contact or communications with Members for any reason.
3. **LIMITATIONS:**
- a. Broker has no other authority except as stated in this Agreement. No other authority is implied from the authority expressly granted in Section 2. The authority of Broker under this Agreement shall not extend to or affect the general practices and policies of Blue Cross.
  - b. Broker is without authority to do or perform, and expressly agrees not to do or perform, the following on behalf of Blue Cross or its employees, directors, officers, or affiliates:
    - i. Incur any debt or liability;
    - ii. Make, issue, alter, vary, discharge or cancel any policy or contracts, or any portion thereof;
    - iii. Waive or extend any policy obligation condition or defaults by Members;
    - iv. Change or modify any policy premium or quote any rates other than those provided by Blue Cross;
    - v. Extend the time for or method of payment by Members;
    - vi. Withhold monies or property;
    - vii. Settle or adjust claims against;
    - viii. Purport to represent Blue Cross or its employees, directors, officers, or affiliates with respect to, or render any decisions regarding, complaints, grievances, or appeals;
    - ix. Make representations with respect to Blue Cross' products except as may be contained in written material furnished by Blue Cross to Broker;
    - x. Develop and/or use any written or electronic material to market, solicit and facilitate enrollment applications for Blue Cross' products other than the written material furnished by Blue Cross to Broker.
  - c. Broker must comply with all requests by Blue Cross for pertinent information.
  - d. Broker is granted a non-assignable, revocable license to use the Blue Cross & Blue Shield name and service marks as Blue Cross authorizes in writing from time to time. Broker shall not advertise Blue Cross' name or products, place any advertisement regarding Blue Cross, or use the Blue Cross & Blue Shield name and/or service marks in any manner, without the prior written consent of Blue Cross' Vice President, Sales.



- e. All Medicare or Med Supp Plan applications shall meet CMS requirements and shall be forwarded to Blue Cross' designated representative within no more than twenty-four (24) hours from completion, as evidenced by the date of the enrollee's telephonic or actual signature. Broker must comply with all requests by Blue Cross for pertinent application information.

4. **BROKER'S DUTIES AND RESPONSIBILITIES:**

- a. Compliance with Applicable Law and Guidelines. Broker warrants that all obligations, duties and activities performed under this Agreement shall be in strict adherence to and compliance with the laws and regulations of Rhode Island, as well as any applicable federal laws and regulations, including, without limitation, to the extent applicable, all Medicare Laws.
- b. Licensure. Broker and all of its agents or employees acting as an Insurance Producer hereunder shall maintain all licenses required by Blue Cross, the State of Rhode Island, and any applicable local or federal laws and regulations to engage in business as an insurance agency or Insurance Producer. Broker will furnish to Blue Cross written proof of licensing satisfactory to Blue Cross prior to the Effective Date of this Agreement and thereafter upon request. Broker agrees to notify Blue Cross promptly of any termination, revocation, suspension, lapse, or expiration of Broker's license or of the license of anyone providing services hereunder through Broker.
- c. Payment of Required Taxes and Fees. Broker will pay license, income, self-employment, unemployment, and any and all other taxes and levies upon the business of Broker and will indemnify and hold Blue Cross harmless against all liability for the same. Broker will furnish Blue Cross with Form W-9 as required by law.
- d. Manner of Performance. Broker and each employee or agent of Broker assigned to act as an Insurance Producer under this Agreement shall perform using best efforts, in a professional manner, and in accordance with all applicable industry standards and the performance standards set forth in this Agreement including, but not limited to, the Medicare Laws. All written, oral, and electronic communication by Broker, its employees, and its agents on behalf of or concerning Blue Cross or its employees, agents, products, services, or customers shall be conducted in a responsible and professional manner. Notwithstanding the generality of the foregoing, Broker specifically agrees to comply with the Medicare Requirements set forth on Exhibit B attached to this agreement when Broker is to marketing, soliciting and facilitating enrollment applications for Medicare Plans, and the HIPAA Business Associate Addendum set forth on Exhibit C attached to this agreement at all times when providing services under this Agreement. In addition, Broker shall comply with the Rhode Island Unfair Competition and Practices Act, RIGL 27-29, and shall not engage in the following practices.
  - i. Twisting – Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert any insurance policy or to take out a

policy of insurance with another insurer.

- ii. High Pressure Tactics – Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, freight, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance.
  - iii. Cold Lead Advertising – Making use, directly or indirectly, of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company.
- e. Reporting. Broker shall render reports in form and substance acceptable to Blue Cross detailing all services provided by Broker under this Agreement, including all information required to document and otherwise substantiate compensation payable to Broker.
- f. Broker Minimum Standards. Any Broker acting as an Insurance Producer under this Agreement must meet the following standards:
- 1. Three (3) or more years of experience selling health insurance plans; or
  - 2. Submission to Blue Cross of no fewer than twenty (20) complete applications during the prior year's Annual Enrollment Period;
- Any Broker not meeting these standards is not authorized to market Blue Cross Medicare or Med Supp Plans. Blue Cross will determine broker compliance with the above minimum standards at the time of initial contracting and in the third quarter of every calendar year prior to the annual Medicare certification process, thereafter. Blue Cross reserves the right to waive these minimum standards on an exception basis.

## 5. **RELATIONSHIP OF THE PARTIES.**

- a. Broker Is An Independent Contractor.
- i. Broker is an independent contractor and Broker (and Broker's agents and employees, if any) shall not be construed to be an agent, employee, or representative of Blue Cross. Nothing in this Agreement shall constitute or be construed to be or have created a partnership, employee or servant relationship, or joint venture between Blue Cross and Broker.
  - ii. Blue Cross shall not be liable or accountable to Broker or to any third party for any act or omission of Broker. Blue Cross shall not be responsible for any of Broker's expenses.
  - iii. The employees and agents of Broker are independent contractors as to Blue Cross and employees as to Broker for all purposes under this Agreement. Broker is solely responsible for the control and health and safety of its employees and agents. Broker is solely responsible for and agrees to pay timely to its employees and agents all wages, benefits, and other compensation, including overtime pay, if applicable. Neither Broker nor its employees or agents are entitled to participate in any health, pension, or other benefit plan maintained by Blue Cross. Broker is solely responsible for and agrees timely to comply with any and all withholding requirements of applicable federal, state, and local law and to pay over such

withheld amounts to the appropriate government agency, including, but not limited to, withholding of taxes and charges required to be paid under federal, state, and local payroll tax requirements, FICA requirements, social security tax requirements, Medicare tax requirements, income tax requirements, unemployment insurance tax requirements, and temporary disability insurance tax requirements, and workers' compensation insurance requirements in the state in which Broker is headquartered and any state in which its employees and agents perform services. Broker is solely responsible for any expenses incurred in performance of any services, including any required tools, supplies, equipment or materials not supplied by the Account.

- b. Blue Cross and Blue Shield Association. Broker expressly acknowledges the understanding that this Agreement constitutes an agreement between Broker and Blue Cross, and that Blue Cross is an independent corporation operating under a license from the Blue Cross and Blue Shield Association (the "Association"), an association of independent Blue Cross and Blue Shield plans. The Association permits Blue Cross to use the Blue Cross and Blue Shield service marks in the State of Rhode Island, and Blue Cross is not contracting as the agent of the Association. Broker further acknowledges and agrees that it has not entered into this Agreement based upon representations by any person other than Blue Cross, and that no person, entity, or organization other than Blue Cross shall be held accountable or liable to Broker for any of Blue Cross' obligations to Broker created under this Agreement.

6. **BROKER COMPENSATION.**

a. Commission and Fee Compensation.

- i. As compensation for Members enrolled through and accepted by Blue Cross pursuant to the authority granted in Section 2, Broker will receive commissions or fees from Blue Cross in accordance with Blue Cross' commission schedules and compensation rules for Medicare Plans and Med Supp Plans attached to this Agreement as Exhibit A and incorporated herein by reference.
- ii. Company may amend such schedules and rules from time to time for both initial enrollments and renewals. Company shall notify Broker in writing of any such amendments. In the event any revised schedule of compensation is unacceptable to Broker, Broker may give notice of such unacceptability, in writing, and terminate this Agreement effective on the date the revised schedule is to take effect.
- iii. All compensation payable to Broker under this Agreement for Medicare Plan enrollment shall be in respect of Members enrolled in a Medicare Plan, as determined by CMS or Blue Cross, as the case may be.
  - a) If Blue Cross elects to pay any compensation to Broker prior to receiving confirmation of enrollment for the member from CMS and it is later determined that CMS did not enroll the member in a Medicare Plan, then Broker shall promptly return such compensation to Blue Cross. Blue Cross may, and shall have the right to set-off such compensation against other amounts payable to Broker under this

Agreement or otherwise.

- b) If a Member disenrolls from a Medicare Plan within three (3) calendar months of enrollment and Blue Cross has paid any compensation to Broker for such Member, then Broker shall refund such compensation to Blue Cross. Blue Cross may, and shall have the right to set-off such compensation against other amounts payable to Broker under this Agreement or otherwise.
- iv. Broker shall not, in any event (including, without limitation, nonpayment of any compensation provided for by this Agreement) bill, charge, seek compensation or remuneration or reimbursement from, hold responsible, or otherwise have any recourse against any Medicare beneficiary (whether an actual or prospective enrollee) for any amounts otherwise payable by Blue Cross.
- v. The compensation payable to Broker under this Section is fair-market-value sufficient to fully and completely compensate and reimburse Broker for all fees, costs, and expenses incurred by Broker in connection with its performance and/or satisfaction of its duties and obligations hereunder, including, but not limited to, transportation expenses, facilities, clerical help, solicitor's fees, postage, advertising, license fees, and any other agency expenses, and Broker is not entitled to receive from Blue Cross, and Blue Cross shall not be obligated in any manner whatsoever to pay or reimburse Broker for, such expenses.
- b. Limitations on Compensation. Notwithstanding the foregoing:
  - i. No commission or fee shall be paid or payable by Blue Cross to Broker for services rendered by Broker or any of its employees or agents acting as an Insurance Producer hereunder for Medicare Plans during any period that such person has failed to complete Blue Cross' annual training for Medicare Plans and Med Supp Plans and has been tested on such training with a passing score of 90%.
  - ii. No commission or fee shall be paid or payable by Blue Cross to Broker for services rendered by Broker or any of its employees or agents acting as an Insurance Producer hereunder during any period that such person or entity has been terminated for cause by Blue Cross.
  - iii. No commission or fee shall be paid or payable by Blue Cross to Broker for services rendered by Broker or any of its employees or agents acting as an Insurance Producer hereunder during any period that such person or entity is not licensed as an Insurance Producer under Rhode Island General law.
- c. Broker Receiving Monies as Fiduciary. All monies or other settlements received by Broker for or on behalf of Blue Cross shall be received by Broker in a fiduciary capacity and immediately delivered in full to Blue Cross.
- d. Assignment. No assignment of commissions and fees payable pursuant to this Agreement or assignment of this Agreement itself shall be valid unless approved in writing by Blue Cross.

## 7. ASSIGNMENT, AMENDMENT, AND WAIVER:

- a. Assignment of Agreement. This Agreement and the rights and obligations of the parties hereto shall bind and inure to the benefit of the parties and their respective heirs, executors, assigns, successors, and representatives; provided, however, that no assignment of this Agreement shall be valid unless approved in writing by Blue Cross, which may be withheld in Blue Cross' sole and absolute discretion, but will not be unreasonably withheld.
- b. Modifications and Amendments. During the initial twelve (12) month term of this Agreement, the Agreement may be modified or amended only by an agreement in writing signed by both parties. Following the expiration of the initial twelve (12) month period, changes and amendments to any term or provision of the Agreement may be made unilaterally at any time by Blue Cross at its sole discretion. Any change or amendments made to any term or provision of this Agreement will be in writing and will be effective one hundred eighty (180) days following written notice to Broker unless Broker and Blue Cross mutually agree to a different period; provided, however, that Blue Cross may change or amend the terms of this Agreement immediately by written notice to Broker to comply with the Medicare Laws.
- c. Waiver. The failure of any party to insist upon strict performance of a covenant or representation hereunder or of any of the obligations hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such party's right to demand strict compliance in the future. No consent or waiver, expressed or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or wavier to or of any other breach or default in the performance of the same or any other obligation hereunder. No term or provision of the Agreement may be waived unless agreed to in writing by the party against whom such waiver is sought to be enforced.

## 8. TERM AND TERMINATION:

- a. Term. The term of this Agreement shall commence on the Effective Date and shall continue in effect through the remainder of that calendar year and for each calendar year thereafter until such time as this Agreement is terminated by either party as provided for herein, unless either party provides notice of non-renewal on or before ninety (90) days prior to expiration of the initial or any extension term.
- b. Termination.
  - i. In addition to a termination by Broker under Section 6(a)(ii), this Agreement may be terminated by either party, with or without cause, upon written notice to the other, made by certified mail, return receipt requested, to be effective one hundred eighty (180) days from the date of such mailing.
  - ii. This Agreement and all agreements for compensation shall automatically terminate upon the death or dissolution of either party.

- iii. This Agreement may be terminated by Blue Cross immediately in writing by certified mail, return receipt requested, to Broker, and without further notice, for any one or more of the following reasons:
  - a) Cancellation, suspension, revocation, non-renewal, lapse, or expiration of Broker's Rhode Island Insurance Producer license;
  - b) Criminal conviction of Broker;
  - c) Filing for bankruptcy by Broker;
  - d) Failure to furnish proof of licensing or insurance satisfactory to Blue Cross within forty-eight (48) hours of a request by Blue Cross for such proof;
  - e) Any other cause that reasonably could damage the reputation of Blue Cross including, but not limited to, breach of fiduciary duty or trust, or violation of law;
  - f) Broker is named as a defendant in a criminal proceeding for a violation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or the HIPAA Regulations;
  - g) A finding or stipulation that Broker has violated any standard or requirement of HIPAA or other security or privacy laws is made in any administrative or civil proceeding in which Broker has been joined;
  - h) a material breach of the confidentiality provisions of this Agreement; or
  - i) failure of Broker to comply with Section 9(e) of this Agreement, or in the event an opinion of the Rhode Island Ethics Commission is necessary and provides that this Agreement presents a conflict of interest for Broker, or a determination by Blue Cross' Audit Committee that this Agreement is not in the best interest of Blue Cross.

c. Effect of Termination.

- i. Upon receipt by Broker of notice of termination of this Agreement, Broker shall have no further power or authority to market, solicit or facilitate enrollment applications for Medicare Plans or Med Supp Plans on behalf of Blue Cross, nor to take any other action on behalf of Blue Cross.
- ii. Upon receipt by Broker of notice of termination of this Agreement, Broker shall immediately return to Blue Cross all Insurance Documentation (defined in Section 10(a)).
- iii. Upon termination of this Agreement for any reason, Broker shall return to Blue Cross or destroy, as specified by Blue Cross, all Proprietary Information (as defined in Section 12) received from, or created or received by Broker on behalf of, Blue Cross that Broker still maintains in any form, and shall retain no copies of such Proprietary Information.

**9. REPRESENTATIONS, WARRANTIES, AND COVENANTS.**

- a. No Disparagement. Broker and its employees and agents will not, directly or indirectly, make any disparaging remarks, whether written or oral, concerning Blue Cross or its officers, directors, employees, agents, products, or services to any other person or entity including, but not limited to, any current or potential employee, Member, insured, or vendor of Blue Cross. Nothing contained herein shall be deemed to limit the ability of Broker to solicit and offer insurance products of any competitor of Blue Cross.
- b. Right to Contract. Broker represents and warrants that Broker has full legal authority to enter into this Agreement and that neither the execution or delivery of this Agreement nor compliance with its terms, conditions, and provisions shall conflict with or result in a breach of any law or regulation applicable to Broker or any agreement or instrument to which Broker is a party.
- c. Qualifications. Broker and each of Broker's employees and agents assigned to perform duties and obligations under this Agreement have, and at all times during the term of this Agreement shall have, the proper skill, training, knowledge and professional credentials as may be necessary to perform the duties and obligations described herein.
- d. Non-Solicitation. As a material inducement to Blue Cross to enter into this Agreement and to provide Broker access to Blue Cross' Proprietary Information (defined herein), during the term of this Agreement and for a period of eighteen (18) months from the date of termination thereof for any reason or no reason at all, Broker agrees not to solicit, hire or assist any entity in soliciting or hiring directly as an employee, indirectly as a contractor or subcontractor, or in any other capacity, any persons who are or become employees, independent contractors, or agents of Blue Cross during the term of this Agreement or who, within ninety (90) days prior to the termination thereof, had been so employed or engaged by Blue Cross. This prohibition shall terminate upon the earlier of (a) eighteen (18) months after the date on which the employee leaves the employ of Blue Cross, or (b) eighteen (18) months after the date of termination of this Agreement.
- e. Rhode Island Elected Officials and Government Employees. Broker represents that as of the effective date of this Agreement that Broker is neither an employee of nor an elected official for the State of Rhode Island (respectively, "Government Employee" and "Elected Official") and that no Government Employee or Elected Official (a) has a substantial financial interest (e.g. an ownership interest of 10% or greater equity interest) or (b) acts in the capacity of a major decision maker (e.g. CEO, CFO, COO, Chair of the Board, or other senior position) for Broker. In the event that after the execution of this Agreement Broker either (i) engages a Government Employee or Elected Official as an employee or as a subcontractor providing services to Blue Cross hereunder, or (ii) a Government Employee or Elected Official acquires a substantial financial interest or decision making authority for Broker, then Broker shall immediately notify BCBSRI of such relationship and shall cooperate with Blue Cross and provide documentation requested by Blue Cross to ensure that such Government Employee or Elected Official is compliant with the Rhode Island Code of Ethics and that the ongoing relationship between Broker and Blue Cross is approved by the Blue Cross Audit Committee of the Board of Directors.

- f. Duty to Update. Broker shall inform Blue Cross immediately upon discovery that any information described in this Section is or has become materially different from the representations and warranties made to Blue Cross.

**10. RECORD-KEEPING AND AUDIT:**

- a. Ownership of Documentation. Blue Cross shall own and exclusively possess all right, title, and interest in and to all policies, forms, applications, manuals and other documentation furnished to Broker by Blue Cross from time to time (collectively, the “Insurance Documentation”), and Broker shall promptly return all originals and copies of the Insurance Documentation to Blue Cross upon Blue Cross’ request and, in any event, upon termination of this Agreement for any reason.
- b. Use of Information. Blue Cross shall have the right to use any and all information, records, or other data generated by Broker and relating Medicare Plans, Med Supp Plans, and Members represented thereby or associated therewith. Such use shall include the right to contact each Member directly for the purposes of audits and handling claims.
- c. Audit.
  - i. Broker shall keep full, true, accurate and up-to-date records that may reasonably be deemed necessary for the purpose of showing its compliance with the provisions of this Agreement, including, without limitation, regarding: payment of wages, taxes, fees, and insurance; legal authority to contract; qualifications; non-solicitation; maintenance of insurance and bonding; scope of appointment forms; documentation of and the reasons for when a scope of appointment form is signed by the Medicare Beneficiary at the time of the appointment and not in advance; and protection of confidential information. Said records shall be kept at Broker's principal place of business.
  - ii. Broker shall make said records available for inspection by Blue Cross or its agents during normal business hours upon reasonable advance notice for ten (10) years from the final date of the contract period or the completion of any audit, whichever is later. Additionally, Broker shall adhere to the audit and inspection requirements detailed in Exhibit B as they relate to inspection by the U.S. Department of Health and Human Services (“HHS”), the Comptroller General or their designees. Should such inspection lead to the discovery of a material violation of a term, condition, representation, warranty, or covenant, in addition to the remedies provided under this Agreement for violation, Broker agrees to take such corrective action as required by Blue Cross or HHS, and to pay the full cost of such audit, including the reasonable fees and expenses of Blue Cross’ employees and agents.



## 11. INSURANCE AND INDEMNIFICATION:

- a. Broker shall not be liable for any claim, injury, demand, or judgment based on tort or any other grounds (including negligence or breach of contract) arising out of Blue Cross' negligence, breach of contract, or tortious or unlawful conduct, and Blue Cross agrees to defend Broker and indemnify and hold Broker harmless against any and all such claims, injuries, demands, and judgments, including, without limitation, payment of all costs and reasonable attorneys' fees incurred in defending the same or enforcing such right of indemnity.
- b. Blue Cross shall not be liable for any claim, injury, demand or judgment based on tort or any other grounds (including negligence or breach of contract) arising out of Broker's negligence, breach of contract, tortious, or unlawful conduct, and Broker agrees to defend Blue Cross and indemnify and hold Blue Cross harmless against any and all such claims, injuries, demands, and judgments, including, without limitation, payment of all costs and reasonable attorneys' fees incurred in defending the same or enforcing such right of indemnity.
- c. Broker shall provide to Blue Cross a Certificate of Insurance showing errors and omissions coverage as required under applicable Rhode Island law or regulations. Broker shall give written notice to Blue Cross of any change in liability insurance coverage within ten (10) days of such change, and agrees to allow and cooperate with Blue Cross to obtain ongoing verification of such coverage.

## 12. PROPRIETARY INFORMATION.

- a. Proprietary Information. As used in this Agreement, the term "Proprietary Information" shall mean all information disclosed to Broker by Blue Cross or its agents or employees in any manner, whether orally, visually, by internet access sites or in tangible form (including, without limitation, documents and computer readable media) and all copies thereof, whether created by Blue Cross or Broker, including but not limited to the following: (a) services, products, and service and product ideas; (b) business methods, strategies, plans, practices, marketing plans, business plans and projections; (c) internal operations; (d) costs, pricing, and billing, proposed reimbursement rates, fee schedules and any other pricing or rate information; (e) specific network facts, figures for and information regarding all products and markets; (f) draft contracts; (g) marketing, financial, trading, research, and sales data; (h) customer, prospect, vendor, sales, or personnel lists or information; (i) customer and supplier contacts and needs; (j) technology, software, computer passwords, program designs, software designs, and hardware configurations; (k) trade secrets; (l) proposed reimbursement rates, fee schedules and any other pricing or rate information, specific network facts, figures for and information regarding all

products and markets, draft contracts, marketing plans, business plans and projections, customer lists, financial statements, patient data, (j) secret, confidential, or proprietary information; (k) any information expressly identified as confidential; and (l) any information that might reasonably be deemed confidential. Proprietary Information shall not include any information that Broker can demonstrate:

(i) was in Broker's possession prior to disclosure by Blue Cross; (ii) was generally known, in the trade or business in which it is practiced by Blue Cross, at the time of disclosure to Broker hereunder, or becomes so generally known after such disclosure, through no act of Broker or its employees, agents or independent contractors; or (iii) which is made available to Broker by a third party who is not known by Broker to be bound to Blue Cross to maintain the confidentiality of such information, as evidenced by written records of said receiving party.

- b. Permitted Use of Proprietary Information. Broker shall use Proprietary Information solely for the purpose of performing its duties and obligations under this Agreement (the "Permitted Purpose"). Other than as expressly specified herein, Blue Cross grants no license to Broker under any copyrights, patents, trademarks, trade secrets or other proprietary rights to use or reproduce Proprietary Information.
- c. Nondisclosure of Proprietary Information.
- i. Except as expressly permitted herein, Broker shall not disclose Proprietary Information and shall prevent the disclosure of such Proprietary Information by Broker's employees, agents and independent contractors.
  - ii. Broker shall disclose Proprietary Information only to those of its employees, agents and independent contractors who have a need to know such information for the Permitted Purpose and have been informed of the confidential and proprietary nature of the Proprietary Information.
  - iii. Notwithstanding the foregoing, in that event that Broker is ordered to disclose Blue Cross' Proprietary Information pursuant to a judicial or governmental request, requirement or order, Broker immediately shall notify Blue Cross and take reasonable steps to assist Blue Cross in contesting such request, requirement or order or otherwise protecting Blue Cross' rights.
- d. Treatment of Proprietary Information.
- i. **Reproduction.** Broker agrees not to reproduce or copy by any means the Proprietary Information without Blue Cross' prior written permission in each case, except as reasonably required to accomplish such Broker's Permitted Purpose.
  - ii. **Return of Proprietary Information.** Upon demand by Blue Cross at any time, Broker shall return promptly to Blue Cross or destroy, at Blue Cross' option, all tangible materials that disclose or embody Proprietary Information, including all copies or duplications thereof. If not returned or destroyed sooner, all Proprietary Information shall be returned or destroyed at the option of Blue Cross, upon termination of the business relationship of the parties.

- iii. **Legends.** Broker shall not remove any proprietary rights legend from, and shall, upon Blue Cross' reasonable request, add any proprietary legend to, materials disclosing or embodying Proprietary Information.
- e. **Injunctive Relief.** The parties acknowledge that it shall be impossible to measure the damages that would be suffered by Blue Cross if Broker fails to comply with the terms of this Agreement and that in the event of any such failure, Blue Cross shall not have an adequate remedy at law. Blue Cross shall, therefore, be entitled in addition to any other rights and remedies to obtain specific performance of Broker's obligations hereunder and to obtain immediate injunctive relief without having to post a bond. Broker shall not urge, as a defense to any proceeding for such specific performance or injunctive relief, that Blue Cross has an adequate remedy at law.
- f. **Survival.** The provisions of this Section shall survive the termination or expiration of this Agreement, and such provisions shall bind Broker no less than five (5) years following such termination or expiration.

**13. MISCELLANEOUS:**

- a. **Sale or Transfer of Broker's Business.** Broker hereby agrees and acknowledges that it shall provide Blue Cross with one hundred eighty (180) days' prior written notice of any sale or transfer of Broker's insurance business to, or merger with, a successor agent or agency. Upon receipt of such notice, Blue Cross may, in its sole discretion, (a) terminate this Agreement in accordance with Section 8 hereof, or (b) approve an assignment to the successor agent or agency in accordance with Section 7(a) hereof.
- b. **Severability.** If any clause or provision in this Agreement is illegal, invalid, or unenforceable under any present or future law, the remainder of this Agreement shall not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid, or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible which would be valid, legal, and enforceable.
- c. **Construction and Jurisdiction.** This Agreement shall be construed and the obligations, rights, and remedies of the parties hereunder shall be determined in accordance with the laws of the State of Rhode Island, without giving effect to the conflicts of laws or choice of laws principles thereof. This Agreement shall be enforced in, and each party consents to the jurisdiction of, the courts of the State of Rhode Island.
- d. **Further Assurances.** From time to time hereafter, each party shall, without further consideration, execute, acknowledge and deliver to the other party such further instruments and documents and take such other action as the other party may reasonably request to assure, complete and evidence the provisions of this Agreement, and to effectuate the purposes of this Agreement.

- e. Notice. Any notice under this Agreement required to be given by Broker to Blue Cross shall be given to Blue Cross by certified mail, return receipt requested, postage prepaid or overnight carrier which requires a receipt, and shall be deemed given upon receipt and addressed as follows:

Blue Cross & Blue Shield of  
Rhode Island 500 Exchange Street  
Providence, Rhode Island 02903  
Attn: \_\_\_\_\_

Any notice required to be given by Blue Cross to Broker shall be given to Broker by certified mail, return receipt requested, postage prepaid or overnight carrier which requires a receipt, and shall be deemed given upon receipt and addressed as follows:  
\_\_\_\_\_

Entire Agreement; Primacy. This Agreement constitutes the entire agreement between the parties and supersedes any and all prior understandings or agreements, oral or written. To the extent that any provisions of this Agreement conflict with the provisions of any other agreement or understanding between the parties, this Agreement shall control.

- f. Survival of Terms. The obligations of Broker which by their nature would continue beyond the termination, cancellation, or expiration of this Agreement including, but not limited to, the obligations imposed upon Broker under Sections 8(c), 9, 10(a), 10(c), 11(a), 11(b), and 12 of this Agreement, shall survive termination, cancellation, or expiration of this Agreement.
- g. Remedies for Breach. In the event of any breach by Broker of Sections 3(b), 3(d), 4(a), 9(a), 9(d), 10(c), 11(c), or 12 of this Agreement which is not cured within two (2) business days after receipt of written notice of such breach:
- i. Blue Cross shall cease making payments under this Agreement and Broker shall forfeit Broker's rights to any further payments under this Agreement; and
  - ii. Broker agrees that money damages would be an inadequate remedy for any such breach, because damages for such breaches are not susceptible to exact measurement in dollars and Blue Cross would be irreparably harmed by any such breach. Broker agrees that Blue Cross shall be entitled to temporary restraining orders, temporary injunctions, and permanent injunctions to prohibit such breaches.
  - iii. This paragraph does not limit the remedies to which Blue Cross is entitled at law or equity for breaches of any Section under this Agreement, and Blue Cross may pursue any other remedy available to Blue Cross for breaches of this

Agreement.

- h. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which, taken together, shall be deemed to be one and the same instrument.
- i. Section Headings. Titles or headings contained in this Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, modify, or describe the scope of this Agreement. If there is any conflict between any such titles or headings and the text of this Agreement, the text shall control.
- j. Successors and Assigns. Except as expressly limited in this Agreement, this Agreement shall bind and inure to the benefit of and be enforceable by the parties thereto and their respective successors and assigns.

Executed by the parties as of the Effective Date.

BROKER

By: \_\_\_\_\_  
(print name)

\_\_\_\_\_  
(signature)

\_\_\_\_\_  
(title)

Company Name: \_\_\_\_\_

BLUE CROSS & BLUE SHIELD  
OF RHODE ISLAND

By: \_\_\_\_\_  
(print name)

\_\_\_\_\_  
(signature)

Title: \_\_\_\_\_

**EXHIBIT A**  
**Blue Cross & Blue Shield of Rhode Island**  
**Broker Compensation**

1. Medicare Plans

**“Initial Year” Commissions:**

In accordance with CMS instructions, Blue Cross shall pay Broker the “Initial Year” commission specified below for each individual in an Initial Enrollment Period or who is new to the Medicare Advantage Program, and who is enrolled in one of Blue Cross’s Medicare Plans which Broker is approved and authorized to market and promote for the 2017 CMS Contract Year beginning with January 1, 2017 effective enrollments. If the individual enrollment is identified to Blue Cross by CMS as a renewal enrollment, Blue Cross shall adjust the compensation paid to Broker for the individual from the “Initial Year” commission specified below to the “Renewal Year” commission specified below. **“Initial Year” commissions will not be paid if the individual was already enrolled in a Medicare Plan at the time of enrollment.** Any required adjustment from the “Initial Year” commission to the “Renewal Year” commission will be made following CMS’s identification that the individual is transferring from a like plan. For any individual enrollment through a Special Enrollment Period, with an effective date after January 1, 2017, “Initial Year” commission will be prorated based on the number of months the member is enrolled, with the exception of those individuals who are transitioning from a group or employer plan to an individual Medicare Plan.

Please see table entitled “2017 Medicare Payment Rules” below for illustration of these payment rules.

**“Renewal Year” Commissions**

Blue Cross shall pay Broker “Renewal Year” commissions for each individual properly enrolled in one of Blue Cross’s Medicare Plans which Broker is approved and authorized to market and promote for the 2017 CMS Contract Year beginning with January 1, 2017 effective enrollments and who remain in a Blue Cross Medicare Plan in subsequent CMS Contract Years. If Broker receives the “Initial Year” commission for the 2017 CMS Contract Year, Broker shall be entitled to earn renewal commissions per CMS guidance, provided that the individual remains enrolled in a Blue Cross Medicare Plan throughout each renewal year and Broker meets all requirements for earning renewal commissions.

**“Initial Year” Commission**

Medicare Plan	\$443
Medicare Part D	\$71

**“Renewal Year” Commission**

Medicare Plan	\$222
Medicare Part D	\$36

**2017 Medicare Payment Rules**

<b>From</b>	<b>To</b>	<b>Initial/Renewal</b>	<b>Broker</b>
Medicare Plan (Competitor)	BCBSRI Medicare Plan	Renewal	\$222
Med Supp Plan (BCBSRI or Competitor)	BCBSRI Medicare Plan	Initial	\$443
Original Medicare	BCBSRI Medicare Plan	Initial	\$443
Age In	BCBSRI Medicare Plan	Initial	\$443
Group BCBSRI Medicare Plan	Indiv BCBSRI Medicare Plan	Initial	\$433
PDP Only (Group or Indiv)	BCBSRI Medicare Plan	Initial	\$443

**2. Med Supp Plans**

For members newly enrolling in Blue Cross Med Supp Plans with effective dates on or after January 1, 2017, whether as part of the member’s Initial Enrollment Period or as a result of the member’s Guaranteed Issue rights, compensation will be paid at the rate of \$160 per year for six (6) years. New enrollment through the Annual Enrollment Period will not be compensated.

For members who are enrolled in Blue Cross Med Supp Plans prior to January 1, 2016, compensation will continue to be paid at the rate of \$107 per year for each year of continued enrollment for the remainder of the six (6) year period of payment, which commenced with the member’s enrollment.

## EXHIBIT B

### MEDICARE REQUIREMENTS

#### MEDICARE PLANS

This Exhibit describes certain CMS requirements related to First-tier, Downstream, and Related Entities (“FDRs”), as well as guidelines regarding marketing, soliciting, and facilitating enrollments for the Blue Cross Medicare Plans. Nothing in this Exhibit alters, limits, amends, modifies or changes, in any way or to any extent, Broker’s obligation under the Agreement to comply with the Medicare Laws. Broker is a First-tier Entity performing functions on behalf of Blue Cross, and as such, Broker and all of its agents or employees acting as Insurance Producers under this Agreement shall comply with all Blue Cross and CMS policies, and other applicable laws, regulations, and guidelines, including, but not limited to, those listed in this Exhibit B. This Exhibit may be amended from time to time by Blue Cross in its sole discretion, and such amendments shall be provided to Broker.

#### **Broker Requirements related to FDR status:**

1. **Right to Audit and Records Retention:** HHS, the Comptroller General, or their designees have the right to audit, evaluate and inspect any pertinent information of the Broker for any particular contract period, including, but not limited to, any books, contracts, computer or other electronic systems (including medical records and documentation of the Broker) for 10 years from the final date of the contract period or the completion of any audit, whichever is later.
2. **Confidentiality and Enrollee Record Accuracy:** Broker must comply with all confidentiality and enrollee record accuracy requirements, including: (1) abiding by all federal and state laws regarding confidentiality and disclosure of medical records, or other health and enrollment information, (2) ensuring that medical information is released only in accordance with applicable federal or state law, or pursuant to court orders or subpoenas, (3) maintaining the records and information in an accurate and timely manner, and (4) ensuring timely access by enrollees to the records and information that pertain to them.
3. **Broker Services are Consistent and Comply with Blue Cross Contractual Obligations:** Any services or other activity performed by Broker are consistent and comply with Blue Cross’ contractual obligations to CMS.
4. **Requirements as to Delegated Services:** Blue Cross has delegated the following activities or responsibilities under its contract with CMS to Broker: marketing, soliciting and facilitating enrollments for Blue Cross Medicare Plans (“Delegated Services”).
  - a. **Monitoring:** Broker will submit to ongoing monitoring by Blue Cross of its performance of Delegated Services.
  - b. **Revocation:** Blue Cross or CMS may revoke the Delegated Services and reporting requirements or allow for other remedies in instances where CMS or Blue Cross determines that Broker has not performed satisfactorily.
  - c. **Subcontracting:** Broker, as a First-Tier Entity, will not subcontract with any entity to provide Delegated Services under the Agreement unless Broker (i) has received prior approval from Blue Cross; (ii) has satisfied the oversight and vendor review and approval process, and (iii) such entity agrees in writing to all of the provisions contained in this Agreement, including the right for CMS or Blue Cross to revoke any Delegated Services.
  - d. **Oversight of Subdelegates:** Broker will provide oversight, in accordance with applicable rules, regulations, and this Agreement, of any subcontractors performing any of the Delegated



Services on behalf of Broker and provide Blue Cross with reporting to substantiate the oversight provided.

- e. Offshore: Broker agrees that requirements under this Agreement are not and will not be fulfilled offshore, either by Broker or any subcontracted or downstream entity.
5. Compliance with Applicable Medicare Laws and Regulations: Broker and any of its subcontractors must comply with all applicable Medicare laws, regulations, and CMS instructions.
6. Hold Harmless: Broker is prohibited from holding any enrollee liable for payment of any fees that are the legal obligation of Blue Cross.
7. Grievances: Blue Cross remains responsible for investigating, processing and responding to all grievances including quality of care grievances.
8. Business Continuity and Disaster Recovery. Blue Cross has identified Broker as supporting an essential process, and as such Blue Cross expects Broker to be positioned respond to any business interruption by recovering business processes and technologies to an alternate location if needed, within 24 hours.
9. Training, Compliance Program and Anti-Fraud Initiatives. Broker agrees to:
  - a. Ensure that all personnel (including contractors) directly involved in or responsible for the delivery of the Delegated Services (A) complete the compliance and fraud waste and abuse training modules developed by CMS (the “CMS Module”) available on the CMS Medicare Learning Network (“MLN”), or complete existing Broker training which incorporates the CMS standardized training modules from the CMS website, without modification, and (B) receive specialized Medicare Advantage and Part D compliance training pertaining to their duties. This training must be provided initially, within ninety (90) days of hire, or within ninety (90) days of execution of this agreement, if training has not previously occurred, and annually thereafter, as a condition of employment and must comply with all applicable laws pertaining to training, including but not limited to the requirements set forth in the CMS Compliance Program Guidelines (contained in the Medicare Managed Care Manual as Chapter 21 and in the Prescription Drug Benefit Manual as Chapter 9) (the “Compliance Program Guidelines”).
  - b. Provide an attestation of completion of this requirement, upon request, and be able to provide certificates of completion for all individuals taking the CMS Module, or other training, as described above, upon request by Blue Cross or CMS.
  - c. The requirements defined in subsections (a) and (b) above will be deemed to be met if Broker completes Blue Cross sales training.
  - d. As appropriate to Broker’s organization and operations, establish and maintain an effective compliance and anti-fraud program to ensure compliance with all applicable laws and to detect and prevent the incidence of fraud, waste and abuse relating to the provision of Delegated Services. Such program will meet the requirements of 42 C.F.R. §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi) regarding effective compliance programs and the Compliance Program Guidelines.
  - e. Cooperate with Blue Cross in any investigation that Blue Cross, in its sole discretion, may undertake in connection with any instance of potential misconduct, fraud, or abuse directly or indirectly related to the provision of Delegated Services.
10. Reporting Responsibilities: Broker will provide the following annual review documents upon request by Blue Cross:
  - a. The FDR Annual Questionnaire and associated requested documents, if required.
  - b. Proof of security of protected health information, as required by Blue Cross.

**Broker Requirements Related to Marketing, Soliciting and Facilitating Enrollment:**

1. Broker understands that in marketing, soliciting, and facilitating enrollments for Medicare Plans, Broker is not permitted to, and will not do any of the following.
  - a. Solicit or accept an enrollment request (application) for a January 1<sup>st</sup> effective date prior to the start of the Annual Enrollment Period unless the Medicare beneficiary is entitled to a Special Election Period or is within their initial coverage election period/initial enrollment period.
  - b. Engage in door-to-door canvassing, leaving information such as leaflets or flyers on cars or at a residence, or approaching prospects in common areas for the marketing of Medicare Plans.
  - c. Make unsolicited telephone or electronic contact with Medicare beneficiaries about other business as a means of generating leads for Medicare plans. However, if a beneficiary contacts Broker and grants permission for Broker to contact them, Broker may call the beneficiary, but such permission applies only to the entity from which the beneficiary requested contact, for the duration of the transaction, for the scope of product previously discussed or indicated in the reply card, and is subject to CMS scope of appointment requirements.
  - d. Make calls to beneficiaries based on referrals resulting in an unsolicited contact (for example, referrals from friends, relatives, neighbors, or companies that collect, buy or sell contact information, including if the call started with a non-Medicare product).
  - e. Make calls to former members who have disenrolled, or to current members who are in the process of voluntarily disenrolling, to market plans or products.
  - f. Make calls to beneficiaries who attended a sales event without the express permission of the beneficiary for a follow-up call given at the event.
  - g. Call beneficiaries to confirm receipt of mailed information
  - h. Make any call to a beneficiary that fails to comply (to the extent applicable) with Federal Trade Commission's Requirements for Sellers and Telemarketers, Federal Communications Commission rules and applicable State law, National-Do-Not-Call Registry, any individual's "Do not call again" request, and Federal and State calling requirements.
  - i. Accept a marketing appointment for a Medicare Plan that resulted from an unsolicited contact with the beneficiary
  - j. Discuss plan options during a marketing appointment that were not agreed to by the Medicare beneficiary in the scope of appointment form.
  - k. Market non-health care related products (such as annuities and life insurance) to prospective enrollees during a marketing appointment.
  - l. Ask a Medicare beneficiary for referrals.
  - m. Make any inquiry as to the health of the prospective member, unless inquiring if the prospective member has endstage renal disease - ESRD - or as CMS may otherwise permit (e.g., in connection with special needs plans), and in no event shall any such inquiry be a health screening or other like activity that could give the impression of impermissible "cherry picking" of individuals based on their health status.
  - n. Limit Broker's marketing, solicitation or facilitation of enrollment applications by reason of the health condition or health history of the prospective member, except as noted above.
  - o. Use any marketing material, including: brochures; illustrations; examples; flip charts; handouts; scripts; radio, television and print ads; internet advertising; and any other material primarily intended to attract or appeal to prospective members for Medicare Plan membership, other than marketing material supplied by, or approved in writing by Blue Cross (and, as applicable, CMS) for use in marketing, soliciting, and facilitating enrollments for Medicare Plans.
  - p. Alter, modify, waive or change any of the terms, rates or conditions of any advertisement, marketing materials, scripts (including, but not limited to, telephone scripts and other sales

- scripts), receipts, policies or contracts of Blue Cross, in any respect, including making verbal statements in conflict with information in written materials.
- q. Discriminate based on race, ethnicity, religion, gender, sexual orientation, disability, health status or geographic location, including targeting marketing to beneficiaries from higher income areas or stating or otherwise implying that plans are available only to seniors rather than all Medicare beneficiaries.
  - r. Offer or give to any prospective member any gift or premium except in compliance with the rules, guidelines and regulations of CMS and other applicable health care laws, including restrictions on cash inducements of any kind, on gifts of more than nominal value, on meals at events at which plan benefits are being discussed and/or plan materials are being distributed.
  - s. Require beneficiaries to provide any contact information as a prerequisite for attending an event (sign-in sheets must clearly indicate that completion of any contact information is optional) or for participating in a raffle or drawing; schedule a one-on-one meeting with an individual without complying with CMS scope of appointment requirements; sign an enrollment form for a beneficiary when Broker was not involved in the enrollment process for such beneficiary; or make any statements that convey the impression that the business or product is approved, endorsed, or authorized by Medicare or any other government agency, or any other statements that are prohibited under CMS guidance.
  - t. Plan, schedule, organize or hold any marketing or sales events for Medicare Plans without the express prior written approval of Blue Cross.
  - u. Conduct sales activities in healthcare settings.
2. Broker must participate in all required training programs (including annual training) and review in detail training material established by Blue Cross regarding the Medicare Plan marketing guidelines and other applicable laws and the details specific to Blue Cross' products. In order to sell Medicare products for Blue Cross, Broker is required to receive a passing score of at least ninety (90) percent on the Blue Cross test for such training.
  3. Broker must make the following disclosure, prior to enrollment or at the time of enrollment, in writing, to a potential enrollee: "The person that is discussing plan options with you is contracted with Blue Cross. The person may be compensated based on your enrollment in a plan." In addition, Broker must make all disclosures required under CMS guidelines at marketing/sales events, including an announcement at the beginning of the presentation regarding all products/plan types that will be covered during the presentation and specific disclosures relating to private-fee-for service products and special needs plans as applicable.
  4. Broker shall be responsible for complying with all applicable state and federal privacy and security requirements.
  5. Broker shall comply with any restrictions that Blue Cross may impose, as permitted by CMS, on marketing or sales of Medicare Plans to specific group(s) of Medicare beneficiaries.

**EXHIBIT C**  
**HIPAA BUSINESS ASSOCIATE ADDENDUM**

**BUSINESS ASSOCIATE ADDENDUM**

This Business Associate Addendum (“Addendum”) is effective as of the Effective Date (the “Agreement Effective Date”) by and between Blue Cross & Blue Shield of Rhode Island (“BCBSRI”) and Broker (“BA”), each individually a “Party” and collectively the “Parties.”

**RECITALS**

WHEREAS, BCBSRI has engaged BA to perform services or provide goods, or both;

WHEREAS, BCBSRI possesses Individually Identifiable Health Information that is protected under the Health Insurance Portability and Accountability Act (“HIPAA”) and the HIPAA Regulations, and is permitted to use or disclose such information only in accordance with HIPAA and the HIPAA Regulations (45 C.F.R. Parts 160-164);

WHEREAS, BA may receive such information from BCBSRI, or create and receive such information on behalf of BCBSRI, in order to perform certain of the services or provide certain of the goods, or both; and

WHEREAS, BCBSRI wishes to ensure that BA will appropriately safeguard Individually Identifiable Health Information;

NOW THEREFORE, BCBSRI and BA agree as follows:

**1. DEFINITIONS:**

The terms “Covered Entity,” “Electronic Protected Health Information,” “Protected Health Information” (PHI), “Standard,” “Trading Partner Agreement,” and “Transaction” have the meanings set out in 45 C.F.R. § 160.103. The term “Standard Transaction” has the meaning set out in 45 C.F.R. § 162.103. The term “Required by Law” has the meaning set out in 45 C.F.R. § 164.103. The terms “Health Care Operations,” “Payment,” “Research,” and “Treatment” have the meanings set out in 45 C.F.R. § 164.501. The term “Limited Data Set” has the meaning set out in 45 C.F.R. § 164.514(e). The term “use” means, with respect to PHI, utilization, employment, examination, analysis or application within BA. The terms “disclose” and “disclosure” mean, with respect to PHI, release, transfer, providing access to or divulging to a person or entity not within BA. For purposes of this Addendum, BCBSRI’s PHI encompasses BCBSRI’s Electronic PHI.

Any other capitalized terms not identified here shall have the meaning as set forth in 45 C.F.R Parts 160-64 or in the Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009 (the “HITECH Act”).

## 2. PERMITTED USES AND DISCLOSURES:

- a. BA is permitted to use and disclose PHI that it creates or receives on BCBSRI’s behalf or receives from BCBSRI (or another business associate of BCBSRI) and to request PHI on BCBSRI’s behalf (collectively, “BCBSRI’s PHI”) only as follows:

- i. Functions and Activities on BCBSRI’s Behalf. To perform functions, activities, services, and operations on behalf of BCBSRI, consistent with HIPAA and the HITECH Act and as permitted or required by the underlying business relationship between the Parties.

- ii. BA’s Operations. For BA’s proper management and administration or to carry out BA’s legal responsibilities, provided that, with respect to disclosure of BCBSRI’s PHI, either:

- a) The disclosure is Required by Law; or

- b) BA will require any third party, including subcontractors and agents to which BA is permitted, with the prior written consent of BCBSRI, to disclose BCBSRI’s PHI, to provide reasonable assurance evidenced by written contract, that such subcontractor or agent will:

- i) Comply with the same privacy and security safeguard obligations with respect to BCBSRI’s PHI that are applicable to BA under this Addendum;

- ii) Hold BCBSRI’s PHI in confidence and use or further disclose BCBSRI’s PHI only for the purpose for which BA disclosed BCBSRI’s PHI to the person or entity or as Required by Law; and

- iii) Promptly notify BA (who will in turn notify BCBSRI in accordance with Section V of this Addendum) of any instance of which the person or entity becomes aware in which the confidentiality of BCBSRI’s PHI was breached.

- iii. Minimum Necessary and Limited Data Set. BA’s use, disclosure or request of PHI shall utilize a Limited Data Set if practicable. Otherwise, BA will, in its performance of the functions, activities, services, and operations provided by Section II, make reasonable efforts to use, to disclose, and to request of BCBSRI only the minimum amount of BCBSRI’s PHI reasonably necessary to accomplish the intended purpose of the use, disclosure or request. In some instances, BA will not be obligated to comply with this minimum necessary limitation if HIPAA provides otherwise.

- b. Data Aggregation. BA may use and disclose PHI received by BA in its capacity as a business associate of BCBSRI to provide Data Aggregation services relating to the Health Care Operations of BCBSRI.

**3. NONDISCLOSURE:**

- c. Prohibition on Unauthorized Use or Disclosure. BA will neither use nor disclose BCBSRI's PHI, except as permitted or required by this Addendum or in writing by BCBSRI or as Required by Law. This Addendum does not authorize BA to use or disclose BCBSRI's PHI in a manner that will violate 45 C.F.R. Part 164, Subpart E "Privacy of Individually Identifiable Health Information" ("Privacy Rule") if done by BCBSRI.
- d. Disclosures Required By Law. BA shall not disclose any PHI on the basis that such disclosure is required by law without first providing written notice to BCBSRI so that BCBSRI shall have an opportunity to object to the disclosure and to seek appropriate relief before PHI is disclosed. If BCBSRI objects to such disclosure, BA shall refrain from disclosing the PHI until BCBSRI has exhausted all alternatives for relief. BA shall require reasonable assurances from persons receiving PHI in accordance with Section II(A)(2)(b) that such persons will provide BCBSRI with similar notice and opportunity to object before disclosing PHI on the basis that such disclosure is required by law.

**4. INFORMATION SAFEGUARDS, MITIGATION AND ENFORCEMENT:**

- e. Privacy of BCBSRI's PHI. BA will develop, implement, maintain, and use appropriate administrative, technical, and physical safeguards to protect the privacy of BCBSRI's PHI. The safeguards must reasonably protect BCBSRI's PHI from any intentional or unintentional use or disclosure in violation of the Privacy Rule, 45 C.F.R. Part 164, Subpart E and this Addendum, and limit incidental uses or disclosures made pursuant to a use or disclosure otherwise permitted by this Addendum.
- f. Security of BCBSRI's Electronic PHI. BA will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of Electronic PHI that BA creates, receives, maintains, or transmits on BCBSRI's behalf as required by 45 C.F.R. Part 164, Subpart C ("Security Rule"), and as required by the HITECH Act. BA also shall develop and implement policies and procedures and meet the Security Rule documentation requirements as required by the HITECH Act.
- g. Sanctions. BA shall have and apply appropriate sanctions against any employee, subcontractor or agent who uses or discloses BCBSRI's PHI in violation of this Addendum or applicable law.
- h. Mitigation. BA shall have procedures in place to mitigate, to the maximum extent practicable, any deleterious effect from any use or disclosure of BCBSRI's PHI in violation of this Addendum or applicable law.

## 5. REPORTING PRIVACY BREACH AND SECURITY INCIDENTS:

- i. Unpermitted Disclosures. BA will report to BCBSRI's Privacy Officer within two (2) days following discovery of any use or disclosure of BCBSRI's PHI not permitted by this Addendum or made pursuant to BCBSRI's written consent.
- j. Privacy Breach. BA will report to BCBSRI's Privacy Officer within two (2) days following discovery of any "Breach" of "Unsecured Protected Health Information" as these terms are defined by the HITECH Act and any implementing regulations.
- k. Security Incident. BA will report to BCBSRI's Privacy Officer any attempted or successful (i) unauthorized access, use, disclosure, modification, or destruction of BCBSRI's Electronic PHI, or (ii) interference with BA's system operations in BA's information systems, of which BA becomes aware. BA will make this report upon BCBSRI's request, except if any such security incident resulted in a disclosure of BCBSRI's PHI not permitted by this Addendum, BA will make this report to BCBSRI within two (2) days.
- l. BA shall cooperate with and provide information to BCBSRI in investigating any unpermitted disclosure, breach or security incident and in meeting BCBSRI's obligations under the HITECH Act and any other security breach notification laws. BA shall not notify individuals of any such unpermitted disclosure, breach or security incident unless directed by BCBSRI.

## 6. INDIVIDUAL RIGHTS:

- m. Access to PHI. Within twenty (20) days of a request by BCBSRI, BA shall make available to BCBSRI such information as BCBSRI may require to fulfill BCBSRI's obligations to provide access to, and copies of, PHI in accordance with HIPAA and the HIPAA Regulations and where applicable, the HITECH Act. BA shall make such information available in an electronic format where directed by BCBSRI.
- n. Amendment of PHI. BA will, upon receipt of written notice from BCBSRI, promptly amend or permit BCBSRI access to amend any portion of BCBSRI's PHI, so that BCBSRI may meet its amendment obligations under 45 C.F.R. § 164.526.
- o. Accounting of Disclosures of PHI. BA shall maintain a record of all disclosures of BCBSRI's PHI in accordance with 45 C.F.R. § 164.528, including the date of the disclosure, the name and, if known, the address of the recipient of the PHI, a brief description of the PHI disclosed, and the purpose of the disclosure that includes an explanation of the basis for such disclosure. BA shall make this record available to BCBSRI's Privacy Officer (or designee) within twenty (20) business days of BCBSRI's request.
- p. Restriction Agreements and Confidential Communications. BA will comply with any agreement that BCBSRI makes that either (i) restricts use or disclosure of BCBSRI's PHI pursuant to 45 C.F.R. § 164.522(a), or (ii) requires confidential communication about BCBSRI's PHI pursuant to 45 C.F.R. § 164.522(b), provided that

BCBSRI notifies BA in writing of the restriction or confidential communication obligations that BA must follow. BCBSRI will promptly notify BA in writing of the termination of any such restriction agreement or confidential communication requirement and, with respect to termination of any such restriction agreement, instruct BA whether any of BCBSRI's PHI will remain subject to the terms of the restriction agreement.

**7. COMPLIANCE WITH TRANSACTION STANDARDS:**

If BA conducts in whole or part electronic transactions on behalf of BCBSRI for which the Department of Health and Human Services has established standards, BA will comply, and will require any subcontractor or agent it involves with the conduct of such transactions to comply, with each applicable requirement of the Transaction Rule, 45 C.F.R. Part 162. BA will not enter into, or permit its subcontractors or agents to enter into, any Trading Partner Agreement in connection with the conduct of Standard Transactions on behalf of BCBSRI that:

- q. Changes the definition, data condition, or use of a data element or segment in a Standard Transaction;
- r. Adds any data element or segment to the maximum defined data set;
- s. Uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification; or
- t. Changes the meaning or intent of the Standard Transaction's implementation specification.

**8. INSPECTION OF INTERNAL PRACTICES, BOOKS AND RECORDS:**

BA will make its facilities, internal systems, books and records relating to its use and disclosure of BCBSRI's PHI available to BCBSRI and the Department of Health and Human Services to monitor compliance with this Addendum and with the Privacy or Security Rules, 45 C.F.R. Part 164, Subparts C and E. The fact that BCBSRI inspects, or fails to inspect, or has the right to inspect, BA's facilities, systems and procedures does not relieve BA of its responsibility to comply with this Addendum, nor does BCBSRI's (i) failure to detect or (ii) detection, but failure to notify BA or require BA's remediation of any unsatisfactory practices constitute acceptance of such practice or a waiver of BCBSRI's enforcement or termination rights under this Addendum. BA shall immediately notify BCBSRI upon receipt by BA of any request for access by the Secretary of the United States Department of Health and Human Services, and shall provide BCBSRI with a copy thereof as well as a copy of all materials disclosed pursuant thereto. This Section VIII shall survive termination of this Addendum.



## 9. TERMINATION OF AGREEMENT:

- u. Term. This Addendum shall be effective as of the Agreement Effective Date and shall continue unless or until this Addendum is terminated in accordance with the provisions of Section IX or the business relationship between the parties terminates.
- v. Termination by BCBSRI. BCBSRI may terminate this Addendum if it determines, in its sole discretion, that BA has breached any provision of this Addendum and upon written notice to BA of the breach and BA fails to cure the breach within thirty (30) days after receipt of the notice. BCBSRI may exercise this right to terminate this Addendum by providing BA written notice of termination stating the failure to cure the breach of this Addendum that provides the basis for the termination. Any such termination will be effective upon the date specified in BCBSRI's notice of termination. If for any reason BCBSRI determines that BA has breached the terms of this Addendum and such breach has not been cured, but BCBSRI determines that termination of this Addendum is not feasible, BCBSRI may report such breach to the Department of Health and Human Services.
- w. Termination by BA. BA may terminate this Addendum if it determines, after reasonable consultation with BCBSRI, that BCBSRI has breached any material provision of this Addendum and upon written notice to BCBSRI of the breach, BCBSRI fails to cure the breach within thirty (30) days after receipt of the notice. BA may exercise this right to terminate this Addendum by providing BCBSRI written notice of termination, stating the failure to cure the breach of this Addendum that provides the basis for the termination. Any such termination will be effective upon the date specified in BA's notice of termination. If BA reasonably determines that BCBSRI has breached the terms of this Addendum and such breach has not been cured, but BA and BCBSRI mutually determine that termination of this Addendum is not feasible, BA may report such breach to the U.S. Department of Health and Human Services.
- x. Obligations on Termination.
  - i. Return or Destruction of Records. Upon termination of this Addendum for any reason, BA shall return or destroy, as specified by BCBSRI, all PHI received from, or created or received by BA on behalf of BCBSRI that BA still maintains in any form, and shall retain no copies of such PHI. If BCBSRI, in its sole discretion, requires that BA destroy any and or all PHI, BA shall certify to BCBSRI that the PHI has been destroyed. BA will require any subcontractor or agent, to which BA has disclosed BCBSRI's PHI pursuant to Section II(A)(2) to return or destroy, as specified by BCBSRI, all such PHI. If return or destruction is not feasible, BA shall inform BCBSRI of the reason it is not feasible. In addition, BA and its subcontractor or agent, shall continue to extend the protections of this Addendum, including but not limited to the obligations of BA to provide access, amendment and accounting of PHI to BCBSRI as set forth in Section VIII, to such information and limit further use and disclosure of such PHI to those purposes that make the return or destruction of such PHI infeasible.

- ii. Continuing Privacy and Security Obligation. BA's obligation to protect the privacy and safeguard the security of BCBSRI's PHI as specified in this Addendum will be continuous and survive termination or other conclusion of this Addendum.
- y. Injunctions. BCBSRI and BA agree that any violation of the provisions of this Addendum may cause irreparable harm to BCBSRI. Accordingly, in addition to any other remedies available to BCBSRI at law or in equity, BCBSRI shall be entitled to an injunction or other decree of specific performance with respect to any violation of this Addendum or explicit threat thereof, without any bond or other security being required and without the necessity of demonstrating actual damages.
- z. Indemnification. BA shall indemnify, hold harmless and defend BCBSRI and any BCBSRI affiliate, officer, director, employee or agent from and against any and all claims, losses, liabilities, costs and other expenses, including attorneys' fees and court or proceeding costs, resulting from, or relating to, any non-permitted use or disclosure of BCBSRI's PHI or other breach of this Addendum by BA or any subcontractor or agent under BA's control.
  - i. Right to Control Resolution. BCBSRI will have the sole right and discretion to settle, compromise or otherwise resolve any and all claims, causes of actions, liabilities or damages against it. Any such resolution will not relieve BA of its obligation to indemnify BCBSRI under this Section IX(F).

**10. MISCELLANEOUS TERMS:**

- aa. State Law. Nothing in this Addendum shall be construed to require BA to use or disclose PHI without a written authorization from an individual who is a subject of the PHI, or written authorization from any other person, where such authorization would be required under state law for such use or disclosure.
- bb. Amendment. BCBSRI and BA agree that amendment of this Addendum may be required to ensure that BCBSRI and BA comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of PHI. BCBSRI may terminate this Addendum upon thirty (30) days written notice in the event that BA does not promptly enter into an amendment that BCBSRI, in its sole discretion, deems sufficient to ensure that BCBSRI will be able to comply with such laws and regulations.
- cc. No Third Party Beneficiaries. Nothing express or implied in this Addendum is intended or shall be deemed to confer upon any person other than BCBSRI, BA, and their respective successors and assigns, any rights, obligations, remedies or liabilities.
- dd. Ambiguities. The parties agree that any ambiguity in this Addendum shall be resolved in favor of a meaning that complies and is consistent with applicable law protecting the privacy, security and confidentiality of PHI, including, but not limited to, HIPAA, the HIPAA Regulations and the HITECH Act.

- ee. Primacy. To the extent that any provisions of this Addendum conflict with the provisions of any other agreement or understanding between the Parties, this Addendum shall control.
- ff. Notices. All notices required or permitted under this Addendum shall be in writing and shall be deemed effective upon personal delivery or upon deposit in the United States Post Office, by registered or certified mail, postage prepaid, to the respective addresses and attentions set forth on the final page of this Addendum.
- gg. Counterparts. This Addendum may be executed in counterparts, each of which will be deemed to be an original and such counterparts together will constitute one and the same agreement. Signature pages transmitted electronically, by PDF, or by facsimile shall be deemed originals.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Addendum as of the Agreement Effective Date.

Blue Cross & Blue Shield of  
Rhode Island

Broker

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Name of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
Title of Authorized Representative

Contact Information:  
Blue Cross & Blue Shield of Rhode Island  
500 Exchange Street  
Providence, RI 02903  
401-459-1000

Contact Information:  
Party \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip \_\_\_\_\_  
Phone \_\_\_\_\_

Attention: Privacy Officer \_\_\_\_\_

Attention: \_\_\_\_\_

## **BROKER CONFIDENTIALITY AGREEMENT**

This Confidentiality Agreement (the "Agreement") is effective on the latest date and year set forth on the signature page hereof (the "Effective Date"), by and between \_\_\_\_\_ ("Broker") and Blue Cross & Blue Shield of Rhode Island ("Blue Cross").

### **RECITALS**

WHEREAS, Blue Cross is in the business of, among other things, insuring, providing, and administering health benefits coverage for various employer groups and other purchasers of health benefits;

WHEREAS, Broker has been engaged to provide certain services by one or more of the groups (the "Companies") for which Blue Cross insures, provides, or administers health benefits coverage on behalf of the group health plan(s) sponsored by such Companies ("the Group Health Plans"); and

WHEREAS, at the request of a Company, Blue Cross will provide certain health claims data, diagnosis or procedure information and other information relating to the Group Health Plan enrollees, some or all of which may be Confidential Health Care Information (as defined herein), to Broker for purposes of the Broker conducting management audits, financial audits, program evaluations and/or actuarial, insurance underwriting and/or similar studies and/or assisting the Company in obtaining reinsurance on a Group Health Plan and/or Company specific basis;

WHEREAS, Blue Cross desires to release such Confidential Health Care Information in accordance with applicable federal and state laws and regulations upon a Company's request; and

WHEREAS, Blue Cross and Broker wish to enter into this Agreement in order to assure that the confidentiality of such Confidential Health Care Information is maintained and that all the parties comply with all applicable federal and state laws and regulations with respect to safeguarding the confidentiality of the Confidential Health Information.

NOW, THEREFORE, in consideration of the following, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **Definitions.** The parties agree that the following terms, when used in this Agreement, shall have the following meanings:

a. "Confidential Health Care Information" shall include, without limitation, all PHI and any other confidential information regarding Group Health Plan enrollees that is disclosed by Blue Cross to Broker. Without limiting the generality of the foregoing, Confidential

Health Care Information also shall include information which is deemed confidential pursuant to the Rhode Island Confidentiality of Health Care Communications and Information Act, R.I. Gen. Laws §§ 5-37.3-1, et seq., as amended from time to time (the "Rhode Island Confidentiality of Health Care Communications and Information Act"), or any other applicable state or federal law or regulation.

b. "HIPAA" means the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, as amended from time to time.

c. "HIPAA Regulations" means the regulations promulgated under HIPAA by the United States Department of Health and Human Services, including, but not limited to, 45 C.F.R. Part 160 and 45 C.F.R. Part 164, as amended from time to time.

d. "PHI" means Protected Health Information as that term is defined under 45 C.F.R. 164.501, as amended from time to time.

2. Permitted Uses, Confidentiality and Nondisclosure.

At the direction of a Company or on behalf of the Group Health Plan, Blue Cross may disclose to Broker such Confidential Health Care Information as is reasonably and minimally required for Broker to provide the following services to the Company on behalf of the Group Health Plan: to undertake a management audit, financial audit, program evaluation, statistical, actuarial, underwriting, and/or other studies for purposes which include obtaining and setting reinsurance rates for a Company. Prior to Blue Cross disclosing such information to Broker, if Company is acting on behalf of the Group Health Plan, Company and Broker must have entered into a HIPAA-compliant business associate agreement. Broker agrees to use Confidential Health Care Information received from Blue Cross under this Agreement solely for such purposes and in accordance with applicable laws and regulations.

Broker agrees that it shall keep confidential all Confidential Health Care Information received from Blue Cross. Broker shall not disclose Confidential Health Care Information to any third party or for any purpose or in any manner whatsoever; provided, however, that Broker shall be permitted to disclose to a prospective licensed reinsurer or managing general underwriter ("Prospective Reinsurer/MGU") information necessary for such Prospective Reinsurer/MGU to provide reinsurance for a Company so long as such Prospective Reinsurer/MGU has signed an agreement with Broker substantially similar to this Agreement. Without limiting the foregoing, Broker agrees that it will not release Confidential Health Care Information to any Company or its officers, employees or agents.

3. Safeguards. Broker agrees that it will establish, with respect to the Confidential Health Care Information, at least the following security and confidentiality procedures:

a. Limit authorized access to Confidential Health Care Information to persons having a "need to know" that information.

b. Identify an individual or individuals who have responsibility for maintaining security procedures for Confidential Health Care Information.

c. Provide a written statement to each employee or agent of Broker as to the necessity of maintaining the security and confidentiality of Confidential Health Care Information, and of the penalties provided for in the Rhode Island Confidentiality of Health Care Communications and Information Act for the unauthorized release, use or disclosure of such Confidential Health Care Information. The receipt of such statement shall be acknowledged by the employee or agent, who shall sign and return the statement to Broker, which shall retain a signed original. The employee or agent of Broker shall be furnished with a copy of the signed statement.

d. Take no disciplinary or punitive action against any employee or agent solely for bringing evidence of violation of the Rhode Island Confidentiality of Health Care Communications and Information Act to the attention of any person.

4. Compliance With Law. Broker agrees to comply with all applicable federal and state laws and regulations, including without limitation the Rhode Island Confidentiality of Health Care Communications and Information Act, HIPAA, the HIPAA Regulations and any other applicable state or federal security or privacy laws in effect from time to time.

5. Indemnification. Broker acknowledges that an unauthorized use or disclosure of Confidential Health Care Information could be regarded as a violation of state and/or federal law and shall therefore indemnify and hold Blue Cross harmless from any and all losses, liability, damages, expenses, costs, or other obligations (including reasonable attorneys' fees) that may be imposed upon, incurred by or brought against Blue Cross as a result of Broker's failure to keep such Confidential Health Care Information confidential, or for the violation of any federal or state act relating to the confidentiality of such information.

6. Term and Remedies.

a. *Term.* This Agreement shall be effective as of the Effective Date and shall continue until either party provides the other party sixty (60) days notice of its intent to terminate the Agreement or until the Agreement is otherwise terminated in accordance with the provisions of Section 6(b) or 8(c).

b. *Remedies.* If Blue Cross determines that Broker has breached or violated a material term of this Agreement, Blue Cross may, at its option, either (i) terminate this Agreement immediately or (ii) take any reasonable steps that Blue Cross, in its sole discretion, shall deem necessary to cure such breach or end such violation. Broker acknowledges that in the event of an improper use or disclosure of Confidential Health Care Information under this Agreement, Blue Cross shall have suffered irreparable harm and, as a consequence, Blue Cross may immediately pursue all available remedies, at law or in equity, and shall not be required to separately demonstrate irreparable harm in seeking injunctive relief.

7. Return or Destruction of Records. Upon termination of this Agreement for any reason, Broker shall return to Blue Cross or destroy all Confidential Health Care Information received, or created or received by Broker on behalf of the Group Health Plan that Broker still maintains in any form, and shall retain no copies of such Confidential Health Care Information.

8. Miscellaneous Terms.

a. *Governing Law.* This Agreement shall be construed and the obligations, rights and remedies of the parties hereunder shall be determined in accordance with the laws of the State of Rhode Island.

b. *Assignment.* This Agreement shall bind and inure to the benefit of and be enforceable by the parties hereto and the respective successors and assigns of the parties hereto. This Agreement cannot be assigned, pledged or hypothecated by any party hereto to a third party without the prior written consent of all parties to this Agreement.

c. *Amendment.* This Agreement may only be amended by the mutual written consent of the parties; provided, however, that amendment of this Agreement may be required to ensure that the parties comply with changes in state and federal laws and regulations relating to the privacy, security, and confidentiality of certain health information. Blue Cross may terminate this Agreement upon thirty (30) days written notice in the event that Broker does not promptly enter into an amendment that Blue Cross, in its sole discretion, deems sufficient to ensure that Blue Cross will be able to comply with such laws and regulations.

d. *No Third Party Beneficiaries.* Nothing express or implied in this Agreement is intended or shall be deemed to confer upon any person, other than the parties hereto and their respective successors and assigns, any rights, obligations, remedies or liabilities.

e. *Consent and Waiver.* The failure of any party to insist upon strict performance of a covenant hereunder or of any obligation hereunder, irrespective of the length of time for which such failure continues, shall not be a waiver of such party's right to demand strict compliance in the future. No consent or waiver, express or implied, to or of any breach or default in the performance of any obligation hereunder, shall constitute a consent or waiver to or of any other breach or default in the performance of the same or any other obligation hereunder. No term or provision of the Agreement may be waived unless such waiver is in writing and signed by the party against whom such waiver is sought to be enforced.

f. *Entire Understanding.* This Agreement constitutes the entire understanding between the parties hereto with respect to the transactions contemplated herein and this Agreement shall not be modified except in writing executed by all parties hereto.

g. *Survival.* The rights and obligations of the parties set forth herein in Sections 2, 5 and 6(b) shall survive the termination of this Agreement and shall continue in full force and effect.

h. *Severability.* Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.

i. *Headings.* The captions contained in this agreement are inserted as a matter of convenience and in no way define, limit or extend the scope or intent of any provisions hereof.

j. *Counterparts.* This Agreement may be executed simultaneously in one or more counterparts. Each counterpart shall be deemed to be an original, and all such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties have duly executed this Agreement.

**BROKER**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**BLUE CROSS & BLUE SHIELD OF  
RHODE ISLAND**

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_





## Electronic Remittance Option Plan

# Enrollment Instructions

Blue Cross & Blue Shield of Rhode Island (BCBSRI) is pleased to offer the Electronic Remittance Option Plan to our employees, vendors, and brokers. This remittance option allows you to have your BCBSRI payments automatically deposited into your checking or savings account.

The electronic remittance option is easy to set up. If you have not set up direct deposit with BCBSRI already, simply follow these steps below to begin depositing payments into your checking or savings account:

1. Complete the enclosed *Authorization for Electronic Remittance* form.
2. Sign and date the form.
3. Attach a voided check or savings account deposit slip to the form for verification of all financial institution information.
4. Return the completed form and attached check to:

Cost Accounting Department  
Blue Cross & Blue Shield of Rhode Island  
500 Exchange Street  
Providence, Rhode Island 02903-2699

Once you are enrolled in the plan, your BCBSRI payments will be automatically deposited into your bank account on the day the payment is made. Proof of payment will appear on your bank statement.

If you choose to enroll in the **Electronic Remittance Option Plan**, you will be notified via email on the day that the funds have been deposited into your account. Please make sure to include your email address on the form provided.

**You can stop this electronic remittance option at any time.** The authority you give to BCBSRI to deposit payments into your bank account will remain in effect until you notify BCBSRI or your financial institution in writing. If you cancel the option, please allow a reasonable amount of time for the automatic payments to be stopped.

If your bank account is not active on the day of an electronic payment, the bank will notify us, and we will remove you from the Electronic Remittance Option Plan. This payment and all future payments will be made with a paper check.

If you have any questions, please call Cost Accounting at (401) 459-1923. Karyn is available to assist you Monday through Friday, 8:00 a.m. to 4:30 p.m.



## Electronic Remittance Option Plan

### Authorization for Electronic Remittance

I authorize Blue Cross & Blue Shield of Rhode Island (BCBSRI) to initiate electronic remittances into my:

Checking Account

Savings Account

I acknowledge that the origination of Automated Clearing House (ACH) or electronic credit transactions into my bank account must comply with the provisions of U.S. Law. This authority will remain in effect until I have cancelled it in writing.

Date: \_\_\_\_\_

#### **Payee Information**

Name (*please print*): \_\_\_\_\_

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Provider    Facility    Broker    Vendor    Other \_\_\_\_\_

#### **Account Information**

Name on Bank Account (*please print*): \_\_\_\_\_

Routing/Transit Number: \_\_\_\_\_

Account Number: \_\_\_\_\_

#### **Financial Institution Information**

Name (*please print*): \_\_\_\_\_

City/State: \_\_\_\_\_

***Payee Signature:*** \_\_\_\_\_

**Please attach a voided check or savings account deposit slip to this form.**

Please return to 500 Exchange Street, Providence, RI 02903 Attn: Cost Accounting