

**HEALTH INSURANCE PLAN OF GREATER NEW YORK
SELLING AGENT AGREEMENT**

THIS AGREEMENT is made and entered into as of the 1st day of _____, _____ by and between **HEALTH INSURANCE PLAN OF GREATER NEW YORK** (hereinafter referred to as "HIP") with offices located at 55 Water Street, New York, New York 10041, and _____ (hereinafter referred to as "Broker"), with offices located at _____. HIP and Broker may hereafter be referred to individually as a "Party" and collectively as the "Parties".

WITNESSETH

WHEREAS, Broker is a _____ [enter type of legal entity (*e.g.*, corporation, partnership, limited liability company, limited liability partnership, etc. If Broker is an individual, omit reference to legal entity)] organized pursuant to the laws of the State of _____ and licensed as a New York State accident and health insurance broker, and is engaged in the business of marketing and selling group accident and health insurance policies pursuant to the laws of the State of New York; and

WHEREAS, HIP is a not-for-profit corporation organized pursuant to the laws of the State of New York and licensed under Article 43 of the New York State Insurance Law, and is certified as a Health Maintenance Organization ("HMO") pursuant to Article 44 of the New York State Public Health Law; and

WHEREAS, HIP offers comprehensive health services plans and, in conjunction with its affiliate, HIP Insurance Company of New York, offers various Point of Service ("POS") health benefit plans (collectively, the "Products", as more particularly defined below) to individuals and small and large business groups; and

WHEREAS, HIP desires to engage the services of Broker for the purpose of marketing and selling the Products; and

WHEREAS, Broker desires to accept the engagement by HIP to provide such services in connection with the Products;

NOW, THEREFORE, for and in consideration of these premises and of the mutual covenants and agreements hereinafter set forth, the Parties hereto agree as follows:

DEFINITIONS

The following terms shall have the meanings as set forth below:

"Contract" means an insurance contract entered into by and between HIP and an individual or Group (as defined below), pursuant to which HIP will provide either POS or HMO health benefit plans to individuals or employees (as defined below).

"Expirations" means records of individuals, Groups and Contracts and their use and control for solicitation of business written by the Broker.

"Group" means an employer, welfare fund, trust or other entity that has entered into a Contract for the benefit of its employees, welfare fund members, trust beneficiaries or other entity members.

"New Business" means those Contracts entered into by HIP and Group(s) or individual(s) where the Broker is the Broker of Record for that Contract and the effective date of the Contract is during the term of this Agreement and entered into as a result of the efforts of Broker.

"Products" means the various HMO and POS health benefit plans offered to individuals and small and large groups pursuant to which HIP will provide HMO and/or POS health care services to eligible Group employees ("Employees") or individuals.

I. MARKETING

- A. To the extent allowed by law, Broker will market the Products to individuals and Groups.
- B. Each Party agrees to obtain all appropriate licenses and permits required to carry out its obligations under this Agreement. Broker acknowledges and agrees that it will perform all services hereunder in accordance with the highest ethical standards relating to broker services including, without limitation, being fully familiar with the Products and related underwriting guidelines.
- C. Any and all marketing materials, including solicitation letters, brochures, magazine or news articles concerning the Products prepared by Broker shall be approved in writing by HIP before such materials are distributed. Unless otherwise agreed to by the Parties, the costs of preparation and distribution of such materials shall be borne by the Party preparing them.
- D. Broker shall not employ or make use of any advertisement or material in which HIP's name and/or corporate symbols are contained without the prior express written consent of HIP. Upon termination of this Agreement, Broker shall cease to use HIP's name, symbol, trademarks, service marks and/or any other proprietary designation in any of its activities and shall promptly return to HIP all documents, materials, forms and items furnished in connection with this Agreement and the marketing and sale of the Products, with the

exception of records that must be maintained by Broker pursuant to applicable law or regulation.

- E. Broker shall comply with all of the rules, regulations and requirements contained in HIP's Broker Manual (the "Manual"). Broker hereby acknowledges receipt of a copy of the Manual as of the date hereof. HIP shall deliver to Broker any amendments to its Manual promptly upon publication thereof.
- F. Broker shall not make any representations with respect to Products except as may be contained in the written materials approved by or prepared and furnished by HIP, and shall make no oral or written alteration, modification or waiver of any of the terms or conditions of the Products.
- G. Broker acknowledges and agrees that it has no authority to offer a Contract to any individual, employer or welfare fund without the prior approval of HIP. Contracts may be approved only by HIP, in its sole discretion.
- H. Broker acknowledges and agrees that it has no authority to sign any agreement or contract (including Contracts subject to this Agreement) on behalf of HIP.
- I. HIP shall not be liable for any commissions, expenses, costs or damages resulting from its failure or refusal to accept a potential Group or issue a particular Contract solicited by Broker, regardless of the reason or cause for such failure or refusal.
- J. Broker agrees to maintain all documents, records and other information concerning its services under this Agreement for as long as required by applicable law, but in no event less than six (6) years, and to make such documents, records and information available to HIP on request. This provision shall survive the termination of this Agreement.
- K. Broker acknowledges and agrees that, in order to render or to continue to render services pursuant to this Agreement, Broker must comply with all of HIP's requirements for Broker affiliation.
- L. Broker agrees to provide HIP, upon request, with any and all information relating to Broker's arrangement(s) with Groups or individuals that are applying for or receiving coverage from HIP pursuant to a Contract.

II. ACCOUNT SUPPORT SERVICES

Broker shall perform the administrative functions listed in this Article on behalf of HIP and shall be compensated for those services at the level and manner provided below. Broker shall perform such services based on its understanding that HIP is relying on Broker to perform them, and that in providing such services, HIP's own administrative expenses will be reduced.

A. Administration

Broker shall maintain all administrative and statistical records in respect of the Contracts. In respect of New Business, Broker shall review all individual application information and verify that such information is complete. Broker shall forward such information to HIP's enrollment and underwriting departments. Such records shall indicate the insured status of each person, including employees, retirees and dependents. Such records shall include but not be limited to the following data elements:

- (a) effective dates
- (b) termination dates
- (c) lapse dates
- (d) appropriate addresses of record
- (e) selection of health care provider
- (f) enrollment change dates
- (g) existence and amount of any other health insurance covering the insured and any spouse and/or dependents

B. Account Support Services

Subject to the provisions of Section I of this Agreement, Broker shall serve as a resource to individuals and Groups and shall provide information and support to those individuals and Groups concerning the Products, including, but not limited to, the following:

- 1) responding to inquiries from individuals and Groups concerning benefits, whether such inquiries are made in person, by telephone or via correspondence;
- 2) making presentations regarding the Products, and providing such other information, as an individual or Group may require for marketing to or servicing the enrolled individual or Group;
- 3) assisting in the collection of premium from individuals and Groups, when requested to do so by HIP.

Notwithstanding the above, Broker agrees to record, date, time-stamp and forward all non-routine requests received from individuals or Groups to HIP.

III. COMPENSATION

- A. HIP shall pay Broker a monthly commission on all New Business written by HIP, in accordance with the terms set forth in Schedule A to this Agreement.
- B. Commissions and fees payable under this Agreement shall be paid only if: (i) this Agreement is in effect; (ii) the individual or Group has a Contract with HIP with respect to which the Broker is the broker of record; and (iii) Broker is the broker of record for that individual or Group when commissions and fees become payable and provides services to the individual or Group in that capacity in accordance with this Agreement.
- C. In the event that an individual or Group terminates all or any part of its health benefits coverage with HIP pursuant to a Contract, no future commissions or fees will be payable by HIP under this Agreement with respect to the portion of the Group's or individual's coverage that was terminated, until such time as the Group or individual renews such health care coverage with HIP through Broker.
- D. HIP shall have the right to discontinue or alter the health benefits coverage provided under a Contract issued to an individual or a Group in accordance with the terms of such Contract. If HIP terminates, rescinds, or otherwise cancels a Contract with a Group or individual, and is thereby obligated to refund premium paid in respect of that Contract, Broker shall repay to HIP, immediately upon demand, the amount of all commissions and fees that it has received pro rata according to the ratio of returned premium to total premium for the Contract. If Broker does not repay such commissions immediately upon demand, HIP shall have the right to: (i) offset the amount to be refunded against any future commission payments due under this Agreement; and (ii) terminate this Agreement, effective immediately upon such Contract termination, rescission or cancellation. HIP shall also have the right to pursue any and all rights and remedies it may have at law or equity.
- E. No commissions shall be payable under this Agreement in respect of any premium charges that have been waived under the terms of any Contract because of disability or other similar condition, and no commissions shall be payable for any interest earned or due on any unpaid premium charges.
- F. Medicare lead-generation fees and administrative fees, if any, shall be paid to Broker in accordance with the compensation program then in effect for Medicare lead-generation and the Payment Schedule set forth at Schedule A. HIP shall provide Broker with all applicable information concerning such lead-generation program(s).

IV. AUDITS

- A. HIP shall have the right to audit and copy all relevant books and records of Broker at any time. Broker shall reimburse HIP for the expenses of any audit conducted as a result of Broker's misconduct, fraud or intentional misrepresentation of HIP and/or the Products.
- B. Broker and its employees and affiliates shall make available to HIP immediately upon request and permit HIP to copy all relevant files and business records maintained by Broker in respect of this Agreement, the Products, and all brokerage activities undertaken pursuant to this Agreement.

V. LICENSES; TAXES; INSURANCE

- A. Broker shall maintain all legally required New York State broker license(s) in good standing during the entire term of this Agreement. Broker shall notify HIP immediately of any termination, suspension or expiration of any license necessary to permit Broker to engage in the marketing and sale of accident and health insurance policies, including HMO contracts, in the State of New York.
- B. Broker warrants that it currently has, or shall immediately obtain, any and all licenses required by the State of New York or local laws or regulations to engage in the marketing and sale of accident and health insurance policies, including HMO contracts, and will pay all license, income, self-employment, unemployment and any and all other taxes, fees and levies upon its respective business as required by applicable law. Broker shall and hereby does indemnify and save harmless HIP from all liability attaching to HIP as a result of Broker's failure or refusal to comply with this Section.
- C. Broker shall maintain adequate errors and omissions insurance during the term of this Agreement in an amount reasonably required by HIP, and shall name HIP as an additional insured on such policy and request notice to HIP by the insurer of any reduction, modification, cancellation or termination thereof. Broker shall provide evidence to HIP that such coverage is in force prior to the execution hereof, and from time to time upon HIP's request. Broker shall notify HIP immediately if such insurance is or will be reduced, modified, canceled or terminated.

VI. TERM and TERMINATION

- A. Except with respect to Section VIII, the term of this Agreement shall be one year. This Agreement shall automatically renew for successive one year terms unless: (i) either Party provides written notice of its intention not to renew at least sixty (60) days prior to the expiration of the then-existing term; or (ii) the Agreement is terminated in accordance with the provisions set forth below.
- B. This Agreement may be terminated:
1. by either Party, at any time, without cause, upon ninety (90) days written notice;
 2. by either Party upon thirty (30) days written notice in the event that the other Party has failed to comply with any material term, condition or obligation of this Agreement, and such Party subsequently has failed to undertake substantial efforts to remedy the default within fifteen (15) days after the non-defaulting Party shall have given written notice thereof to the non-performing Party, or within such other longer period of time as in the opinion of the non-defaulting Party shall be reasonable under the circumstances.
 3. immediately upon determination by a court of law or administrative body having jurisdiction over the Parties that the performance of obligations or the exercise of rights hereunder is illegal, or violates any law or regulation which may be enacted subsequent to the date hereof or any interpretation of any existing law or regulation, or violates any existing agreement with a third party or any rule or guideline promulgated pursuant to such agreement, and such disability renders the performance of the Agreement impossible. No right to terminate this Agreement shall arise under this subsection unless and until the Party desiring such termination shall make all reasonable efforts to cure the illegality or violation in question and to suggest reasonable and appropriate amendments or modifications to this Agreement so as to permit performance hereunder without effecting the illegality or violation in question.
 4. by either Party, immediately upon written notice, if the other Party is unable to pay its debts, files or has filed against it a petition in bankruptcy, commences or has commenced against it any other insolvency proceedings which are not dismissed within forty-five (45) days or seeks reorganization or an arrangement with creditors.
 5. by HIP immediately upon notice that Broker's license is suspended, terminated or expired or that there has been a material change in Broker's errors and omissions insurance coverage as set forth in Section V.C.

- C. No waiver of any breach of any provision of this Agreement shall be deemed a waiver of any subsequent breach of the same type or a breach of any other provision of this Agreement.
- D. Termination of this Agreement shall in no way affect the terms and conditions of any Contracts issued during the term of this Agreement, nor shall it affect the rights of the Parties under Section VIII of this Agreement.
- E. Termination shall not be effective as to Contracts issued prior to the termination date. Obligations of the Parties under this Agreement shall continue with respect to each Contract issued prior to termination for a maximum period of one year after the effective termination date. During that one year period, Broker will cooperate with HIP to enable HIP, or its designee, to assume responsibility for Contracts independent of Broker.
- F. Neither Party shall be liable to the other by reason of the expiration or termination of this Agreement or its non-renewal, provided, however, that the termination of this Agreement for any reason shall not terminate any rights, obligations or liabilities which either Party may accrue prior to such termination which, under the terms of this Agreement, continue after such termination.
- G. The provisions and obligations of Articles IV, VII and VIII shall survive termination of this Agreement.

VII. INDEMNIFICATION

Broker shall indemnify, defend and hold HIP and its directors, officers, employees, agents, independent contractors and affiliated companies harmless from and against any and all claims, suits, demands, liabilities, costs, damages and expenses whatsoever, including attorney's fees, arising from or related in any way to: (i) any and all services rendered hereunder by Broker, its employees, agents, or independent contractors, or any omission with respect to such services; (ii) any unauthorized warranties made by Broker, its employees, agents, or independent contractors with respect to Products, whether express or implied; (iii) any breach by Broker, its employees, agents, or independent contractors of their agreements, obligations, representations and warranties hereunder; and (iv) any violation by Broker, its employees, agents, or independent contractors of federal, state or local laws or regulations or other requirements.

VIII. CONFIDENTIALITY; PROPRIETARY INFORMATION

- A. In performing its obligations pursuant to this Agreement, each Party may have access to and receive certain non-public information about the other and its affiliates including, but not limited to, product marketing philosophy, telemarketing design and service, product advantages and disadvantages, financial, demographic and actuarial information, Underwriting Manual guidelines, internal policies concerning enrollment, billing and other information and/or proprietary materials that are considered confidential or proprietary to the disclosing Party. This section is not intended to grant the Parties the right to use or have access to such confidential information, but rather to circumscribe the use which the Parties may make of any such information to which they have access. However, the Parties hereby acknowledge that Broker does not have proprietary rights in the identity of any Group or individual proposed for coverage by HIP, except the right to Commissions, if any, in accordance with this Agreement.
- B. Except as otherwise provided in this Agreement, each Party hereto shall maintain the confidentiality of all such confidential and/or proprietary information, and shall not disclose such information to any third party, except as may be required by law or court order, and shall not use such information for any reason other than the fulfillment of its obligations hereunder, for the term of this Agreement and thereafter.
- C. Each Party shall retain all ownership rights to its confidential and/or proprietary information.
- D. Each Party recognizes that any breach or violation of this section may result in irreparable harm to the non-breaching party, and each Party agrees that, in addition to any and all other remedies available, the non-breaching party shall be entitled to an injunction restraining the breaching party and any related person(s) from violating this section.

IX. NOTICES

Any notice required to be given pursuant to the terms and provisions hereof shall be in writing and shall be sent via telecopy, overnight courier or certified mail, return receipt requested, to the Parties at their designated addresses.

Notice shall be effective: (i) in the case of telecopy, when sent; (ii) in the case of overnight courier service, on the next business day after the notice is sent; and (iii) in the case of certified mail, three (3) days after the letter is deposited, postage prepaid, in a United States post office depository.

X. MISCELLANEOUS

- A. Broker shall comply with all applicable federal, state and local laws and regulations and HIP's rules and regulations in performing its obligations hereunder.
- B. All printed materials, applications, sales literature and other written material which HIP may furnish to Broker and which Broker may furnish to its employees shall remain the property of HIP, subject at all times to its control, and Broker shall return all such materials to HIP immediately upon request.
- C. During the term of this Agreement and at all times thereafter Broker shall not, directly or indirectly, disclose to any person or entity any confidential information which it has obtained by reason of its association with HIP about the business of HIP or about HIP insureds or about Groups insured by HIP, nor shall Broker use such information in any way that may adversely affect HIP.
- D. Broker hereby represents, warrants and covenants to HIP as follows:
 - 1. There is no restriction or limitation, by reason of any law, regulation, contract, agreement or otherwise, upon Broker's right or ability to enter into this Agreement or to fulfill its obligations hereunder.
 - 2. Broker is in compliance with and will continue to comply with all applicable statutory and regulatory requirements, including but without limitation, licenses, certificates and permits required by the State of New York. Broker hereby assumes responsibility for any failure to comply with these requirements, including payment of fines. Broker shall immediately notify HIP of any loss or suspension of its license. Broker shall immediately notify HIP of any criminal, civil or administrative action involving Broker.
 - 3. Broker has never suffered any loss, suspension or termination of any license issued by a federal, state or local governmental authority in connection with the sale of any type of accident and health insurance; and Broker has never suffered suspension or termination of the right to represent an insurance company for cause other than normal expiration of an agreement.

E. Governing Law

This Agreement shall be governed, construed and enforced in accordance with the laws of the State of New York. In the event that one or more of the provisions herein shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforcement of the remaining provisions shall not be affected or impaired.

F. Assignment

HIP reserves the right to assign, delegate, subcontract, or otherwise transfer its rights, obligations and/or interests under this Agreement to any parent, subsidiary or affiliate of HIP or to any company which is the successor to all or substantially all of the business of HIP, without the consent of the other party.

G. Waiver of Breach

No failure to exercise, and no delay in exercising, on the part of HIP, any right, power or privilege hereunder, shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided for herein are cumulative and not exclusive of any rights or remedies provided by law.

H. Entire Agreement; Modification, Waiver

This Agreement and the Schedule annexed hereto embody the entire agreement and understanding between and among the Parties hereto and supersede all prior agreements and understandings relating to the subject matter of this Agreement. This Agreement and any provision hereof may be amended, changed, waived, discharged or terminated only by HIP, pursuant to written notice to Broker ("Notice of Amendment"). Such amendments, changes or other modification will be full force and effect on the date specified in the Notice of Amendment.

I. Relationship as Independent Contractors

It is understood and agreed that neither Party shall have any authority to make any representation, warranty or binding commitment on behalf of the other Party. HIP and Broker are independent contractors contracting with each other for the purpose of effecting the provisions of the Agreement. Neither the relationship of the Parties nor their performance of any obligations under this Agreement shall render the Parties partners or joint venturers.

J. Receipt of Claims and Complaints

Broker agrees to immediately forward to HIP all claims, complaints or demands of any kind or nature received by Broker in respect of HIP's business or any Contract, including but without limitation, all consumer complaints, regulatory inquiries and legal process concerning or against HIP that is served upon or received by Broker.

K. Expirations

Expirations shall be the sole and exclusive property of HIP. Upon the occurrence of any event that permits immediate termination of this Agreement, HIP may take immediate possession of all records relating to the Expirations and Broker shall, upon HIP's request, immediately gather such records together at Broker's principal place of business and allow HIP access to take possession

of those records. HIP may service those Expirations directly or dispose of them in any commercially reasonable manner. HIP may collect premiums directly from any individual or Group who has not made payment to Broker.

L. Headings

The headings of sections contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of this 1st day of _____, _____.

Health Insurance Plan of Greater New York

Selling Agent

By: _____
sign name

By: _____
sign name

print name

print name

title

title

date

date

e-mail address

phone number

fax number

SCHEDULE A

PAYMENT SCHEDULE

All HIP premiums are due and payable no later than the first day of the month for which coverage is to be provided (the "Premium Due Date"). HIP will pay commissions as premium is received by HIP in accordance with the following schedule:

1. For New Business, HIP shall pay Broker within sixty days of: (i) receipt of premium; and (ii) the effective date of the New Business.
2. Thereafter, if premium is received by HIP no later than 15 days after the Premium Due Date, HIP shall pay Broker within sixty (60) days of the Premium Due Date.
3. If premium payment is received by HIP more than 15 days but less than 30 days after the Premium Due Date, HIP shall pay Broker within ninety (90) days of the Premium Due Date.
4. If premium is received by HIP more than 30 days but less than 60 days after the Premium Due Date, HIP shall pay Broker within 120 days of the earliest Premium Due Date.
5. If premium is not received by HIP within 60 days of Premium Due Date, the Contract shall be terminated and no payments shall be made to Broker with respect to such terminated Contract.