

EMPIRE USE ONLY

Rep Name: _____

Rep Code: _____

INSURANCE PRODUCER AGREEMENT

AGREEMENT made as of _____ by and between Empire HealthChoice Assurance, Inc. d/b/a Empire Blue Cross Blue Shield and Empire HealthChoice HMO, Inc. d/b/a Empire Blue Cross Blue Shield HMO (collectively referred to herein as "Empire") with principal offices located at One Liberty Plaza, 165 Broadway, 14th Floor, New York, NY 10006 and

(Full Name of Payee) _____ (the "Producer")

with offices located at (Number and Street) _____

(City) _____ (State) _____ (Zip) _____

Empire and Producer agree as follows:

1. SCOPE

- A. This Agreement is entered into in regard to commissionable and non-commissionable lines of insurance as set forth in the "Broker Handbook", and which may be amended by Empire and which is incorporated by reference and made a part of this Agreement.
- B. For purposes of this Agreement, Empire shall mean Empire HealthChoice Assurance, Inc. or Empire HealthChoice HMO, Inc., a parent, and any subsidiaries or affiliates of which Empire, directly or indirectly, either (i) owns greater than a 50% interest, or (ii) exercises control over the day-to-day operation, and shall also include any one or more of their parent, subsidiary and/or affiliate corporations.
- C. For purposes of this Agreement, the term "Producer" in certain instances as reasonably determined by Empire shall include any duly licensed individuals and licensed brokers, agents or other persons who are represented or held out to be employees, agents or affiliates of the Producer.

2. APPOINTMENT, RELATIONSHIP AND AUTHORITY

- A. Empire acknowledges the appointment of the Producer to represent certain accounts who have or will have a health benefits plan for its eligible members through an insured arrangement ("Groups") in accordance with this Agreement only if the form "Broker of Record" letter, Group Application or other document satisfactory to Empire is executed by such Groups.
- B. The Producer's relationship to Empire shall be that of an independent contractor and nothing contained in this Agreement shall be construed to create the relationship of employer and employee or principal and agent between Empire and Producer.
- C. Empire authorizes the Producer to do the following:
 - 1. To solicit applications, obtain factual information on prospective groups, enrollment cards, applications for contracts and similar or related documents required by Empire prior to effectuating group insurance coverage for Groups classified by

Empire as Small Groups or Large Groups as such terms are defined in the "Broker Handbook", and to forward these documents to Empire at least thirty (30) days prior to the effective date of such group insurance coverage;

2. If specifically authorized by Empire in writing or as otherwise authorized by law, to collect only the full initial premium, other fees or charges for policies to be issued or benefits to be provided and to submit all such monies collected to Empire within five (5) business days of receipt thereof;
3. To deliver the certificates of insurance, or benefit contracts or other agreements as between Empire and the Groups to the Groups promptly and in accordance with Empire's delivery requirements;
4. To be governed strictly by all underwriting rules, regulations and instructions contained in the "Broker Handbook" or any other document promulgated by Empire and to observe and comply with all applicable insurance laws and the New York State Insurance Department regulations. In the event of any dispute between the parties hereto as to the interpretation of Empire's underwriting rules, regulations and instructions, Empire in its sole discretion shall resolve any such dispute; and
5. To keep such records as may be reasonably required by Empire and/or required under applicable laws and regulations for a period of no less than seven (7) years following the termination of this Agreement. All records, manuals and supplies furnished to the Producer by Empire are proprietary and may not be reproduced without written consent by Empire. Such proprietary information shall be promptly returned to Empire upon termination of this Agreement.

3. INDEMNIFICATION AND INSURANCE

- A. The Producer agrees to indemnify, defend and hold harmless Empire and its shareholders, directors, officers, employees, successors and assigns from any damages, and against, any and all claims, penalties, liabilities, losses, damages, suits, settlements, judgments or costs, including reasonable attorney's fees, which may arise from the acts or omissions of the Producer, its officers, employees, affiliates or agents in performing under this Agreement or from the failure to comply with the laws and regulations governing its business.
- B. The Producer covenants and agrees that it shall maintain, during the term hereof, all insurance and/or bonds required by law, including but not limited to: (1) Workers' Compensation insurance as prescribed by the Law of the State; (2) Commercial General Liability insurance, including Contractual Liability; (3) Comprehensive Automobile Liability; and (4) Professional Liability and Errors and Omissions insurance.

4. LIMITATIONS OF AUTHORITY

The Producer represents and warrants that its authority does not permit it to do any of the following acts and will not commit Empire to perform any of the following acts:

- A. To waive, modify, alter or amend any terms, rates, proposals, advertisements, conditions or limitations of any contract or certificate of insurance or contract;
- B. To approve, or to bind, obligate or commit Empire in any manner. No authority shall be implied from the authority expressly granted Producer by Empire hereunder;
- C. To incur any debt, expense or liability on behalf of Empire;

- D. To extend the time for payment of any premium of other monies or to reinstate any coverage terminated;
- E. To adjust, settle or admit liability on any claims;
- F. To enter into any contractual arrangement or any legal proceeding pertaining to Empire's business as a representative of Empire;
- G. To publish or cause to be published, circulate or cause to be circulated or utilize any advertising material other than that which is furnished to the Producer by Empire or approved in writing by Empire. Advertising material includes, but is not limited to:
 - 1 Printed and published material, audiovisual material or descriptive literature used in direct mail, newspaper, magazines, radio and television scripts, billboards and similar displays;
 - 2 Descriptive literature and sales aids of all kinds such as circulars, leaflets, booklets, illustrations, computer proposals and form letters; and
 - 3 All materials containing Empire's service or trademarks or trade names or the Blue Cross and Blue Shield Association service marks;
- H. To pay, allow or offer to pay or allow as an inducement to any person or entity, any rebate of premium or other consideration not specified in any certificate of insurance or contract;
- I. To sign an application for a policy on behalf of a Group unless such application was personally taken by the Producer in the presence of the Group applicant and authorized by such Group in writing;
- J. To sign an application on behalf of an applicant seeking coverage under the Group;
- K. To appoint, designate or contract with any other Producer or other licensee without prior written approval from Empire;
- L. To hold itself out as an employee, partner, affiliate, joint venture, associate or agent of Empire;
- M. To commingle any premiums or other monies that it may receive from any Group pursuant to this Agreement with any other monies;
- N. To assert a right, title or interest in or to any trademark, service mark or trade name of Empire or the Blue Cross and Blue Shield Association; or
- O. To induce or endeavor to induce any Group of Empire to discontinue payment of premium or other monies or to relinquish any other insurance product or program (except if replaced by another Empire product or program).

5. LICENSES, TAXES, COMPLIANCE AND TERRITORY

- A. The Producer must be properly licensed by the State of New York. In the event the Producer is not licensed or is subject to suspension thereof, Producer shall not be entitled to receive, and Empire shall not pay, any commissions otherwise payable to Producer.
- B. The Producer will promptly furnish Empire with copies of all of its licenses upon request by Empire.
- C. All Producer license fees and any other license fee or any municipal, county, state or occupational taxes shall be the responsibility of the Producer.
- D. The Producer shall comply with all applicable laws and regulations pertaining to its activities under this Agreement.
- E. No territory is assigned exclusively to the Producer.

- F. Further to Section 5(d) hereof, Producer shall insure that, to the extent applicable, each place of business established by the Producer shall have in charge at least one properly licensed supervising person.

6. RESERVATION OF RIGHTS

Empire specifically reserves the following rights, subject to appropriate regulatory approval where applicable:

- A. To discontinue or withdraw from sale or modify or amend any certificate of insurance, contract, marketing material, proposal or marketing concept;
- B. To modify, amend or cancel any certificate of insurance or contract;
- C. To determine all terms, conditions and limitations on any certificate of insurance or contract;
- D. To modify, amend, delete or add any Empire procedure;
- E. To require the Producer to sign an acknowledgment of relationship or any other disclosure form which Empire deems necessary; and
- F. Upon reasonable notice, to audit and make copies of any and all records in the Producer's possession which relate to the Producer's performance of its obligations under this Agreement at reasonable intervals and during regular business hours. This may be exercised by Empire or the Group's duly authorized representatives upon approval by Empire.

7. COMPENSATION

- A. Empire shall pay the Producer compensation in the form of commission payments and other compensation in accordance with the commission schedules and programs described and/or referenced in the "Broker Handbook" or published by Empire from time to time on Empire's Website, www.empireblue.com, on those premiums paid to Empire for business submitted pursuant to this Agreement and approved by Empire, provided that the Producer is in compliance with all the terms and conditions of this Agreement and is not terminated as defined by this Agreement.
- B. Empire shall have no obligation to the Producer for any expenses that may be incurred in connection with the services performed hereunder.
- C. Commission payments shall be based on collected and reconciled premium and any refunds or adjustments to Group premium shall result in an adjustment or refund to Empire at its sole discretion of previous commission payments made to Producer.
- D. The Producer acknowledges that upon each Group's renewal, the commission payments that it may be due may be terminated or modified if the applicable Group has a change in its rates or its contractual or financial arrangements with Empire.

8. TERMINATION

This Agreement may be terminated upon the occurrence of any of the following:

- A. The Producer withholds or converts to its own use premiums, other monies or property of Empire, of the Group(s), or of an applicant or insured of the Group(s);
- B. The Producer's license expires or is revoked, suspended or terminated;
- C. Thirty (30) days' prior written notice by Empire or the Producer;
- D. The Producer is convicted of a felony;

- E. The Producer fails to maintain errors and omissions coverage;
- F. The dissolution, bankruptcy (whether voluntary or involuntary), insolvency or assignment for the benefit of creditors of the Producer; or
- G. Upon the Producer's breach of any of the terms of this Agreement or underwriting rules, regulations and instructions contained in Empire's manuals, proposals or otherwise.

Termination shall take effect as of the date of the event described in this Section unless notice is required to be given or is otherwise provided, in which event termination shall take effect as of the date specified in such notice.

9. NON-ASSIGNABILITY/DEBTS

- A. No assignment of any compensation due or to become due under this Agreement shall be valid.
- B. Any indebtedness due from the Producer will be a first lien on any monies due or to become due under this Agreement by Empire to Producer, and Empire may, at any time, deduct from any monies due the Producer any such indebtedness, together with interest at the then prevailing highest legal rate and any collection costs including reasonable attorney's fees incurred by Empire.

10. ENTIRE AGREEMENT

This Agreement shall constitute the entire agreement between the parties and shall not be modified or rescinded, except by a writing signed by both parties. Any alterations to this agreement must be in a separate written document signed by both parties. This Agreement supersedes all prior oral and written quotations, communications, agreements and the understandings of the parties with respect to the matters contained herein.

11. NOTICES

Any notice required to be given under this Agreement shall be in writing and sent by confirmed facsimile or by certified mail, returned receipt requested, at the address set forth above or at such other address as the parties may designate from time to time. Notice shall be effective as of the date of mailing or the transmission of such facsimile, whichever shall be applicable.

12. GENERAL PROVISIONS

- A. All payment and indemnification obligations contained herein shall survive the termination of this Agreement.
- B. The headings or captions of each section of this Agreement are for convenience and reference only and are not part of this Agreement, and do not in any way modify, interpret or construe the intent of the parties or otherwise affect any of the provisions of this Agreement.
- C. The failure of either party to exercise any of its rights hereunder shall not operate as a waiver of such right and any waiver by either party of any of its rights hereunder shall not be deemed to be a continuing waiver, or a waiver of any other right.
- D. If any of the provisions of this Agreement shall be held unlawful, invalid or unenforceable by any court or administrative agency, they shall be deemed severable and the

remainder of this Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the parties shall be construed and enforced accordingly.

- E. The construction, interpretation and performance of this Agreement and all transactions under this Agreement shall be governed by the laws of the State of New York.
- F. This Agreement may not be assigned by either party without the prior written consent of the other party; provided, that Empire may assign this Agreement in whole or in part, to any corporation which directly or indirectly, through one or more intermediaries, controls, is controlled by, or under common control with Empire, without the consent of Producer.
- G. Any dispute arising out of, or relating to, this Agreement shall be resolved by binding arbitration in accordance with the rules of the American Arbitration Association. The parties shall be entitled to reasonable discovery from each other upon application to the arbitrator. Any arbitration will be held in the State of New York.
- H. Single words shall include the plural and vice versa.

IN WITNESS WHEREOF, the parties hereby cause this Agreement to be executed by their duly authorized representatives.

OR

INDIVIDUAL PRODUCER

By: Signature: _____
Print Name: _____
Date of Birth: ____/____/____
Telephone Number:(____) ____ - ____
Fax Number: (____) ____ - ____
S.S. Number: ____ - ____ - ____
License Number: ____ - ____
Date Signed: ____/____/____

CORPORATE PRODUCER

Corporation Name: _____
By: Signature: _____
Print Name: _____
Title: _____
Telephone Number:(____) ____ - ____
Fax Number: (____) ____ - ____
Federal ID Number: ____ - ____
License Number: ____ - ____
Date Signed: ____/____/____

OR

PARTNERSHIP (All Partners Sign)

Partnership Name: _____
By: Signature: _____
Print Name: _____
By: Signature: _____
Print Name: _____

Telephone Number:(____) ____ - ____
Fax Number: (____) ____ - ____
Federal ID Number: ____ - ____
License Number: ____ - ____
Date Signed: ____/____/____

ALL: E-mail Address: _____

Empire HealthChoice Assurance, Inc
d/b/a Empire Blue Cross Blue Shield

Empire HealthChoice HMO, Inc.
d/b/a Empire Blue Cross Blue Shield HMO



By: Ethel Graber – VP & General Manager

By: Ethel Graber – VP & General Manager

List all sublicensee(s) who will be assigning commission payments to the Corporation noted above.

First Name, Middle Initial, Last Name	SS Number	License Number	Date of Birth
First Name, Middle Initial, Last Name	SS Number	License Number	Date of Birth
First Name, Middle Initial, Last Name	SS Number	License Number	Date of Birth
First Name, Middle Initial, Last Name	SS Number	License Number	Date of Birth
First Name, Middle Initial, Last Name	SS Number	License Number	Date of Birth