



2021 Producer Agreement For Group Market Products

This 2021 Producer Agreement for Group Market Products is made between Group Hospitalization & Medical Services, Inc. and CareFirst of Maryland, Inc. and their affiliates (hereinafter collectively "Insurer") and _____ a licensed Producer or Agency (hereinafter referred to as "Producer").

Insurer issues, administers and markets health benefit plans and other insurance products for its members in the State of Maryland, portions of Northern Virginia and the District of Columbia ("Service Area"). This Agreement sets for the terms and conditions under which a Producer may solicit applications for Insurer's health coverage, as well as ancillary, non-medical coverage. The purpose of this Agreement is to describe the roles and responsibilities of Producers and the Insurer. This Agreement defines the Insurer's expectations and measures of success and describes the Compensation for achieving those measures.

Insurer and Producer agree as follows:

I. EFFECTIVE DATE.

This Agreement shall be effective the 1st day of February, 2021.

II. DEFINITIONS.

- A. BROKER OF RECORD:** A Producer that has filed with and has received approval from Insurer for a Broker of Record document and is appointed by Insurer in accordance with the Annotated Code of Maryland or equivalent statute in the appropriate state or legal jurisdiction in which Producer holds a current license to sell insurance.
- B. CAREFIRST STOP-LOSS INSURANCE:** Insurance policies underwritten by Insurer that provide reimbursement for catastrophic claims exceeding predetermined levels.
- C. CAREFIRST PREFERRED STOP-LOSS:** Stop-loss insurance policies underwritten by select companies who have engaged in an arrangement with Insurer to provide Stop-loss coverage on behalf of its customers. A listing of preferred Stop-loss carriers can be obtained from your sales representative.

- D. COMMISSION:** Payments made by Insurer out of Insurer funds to Producer on Insurer's behalf in exchange for services provided and described in this Agreement pursuant to **Exhibit A(I)**. This does not include a Producer Service Fee.
- E. COMPENSATION:** Payments made by Insurer out of Insurer funds to Producer on Insurer's behalf in exchange for the services provided and described in this Agreement pursuant to **Exhibit A(I)** Commission, **Exhibit A(II)** Net Growth Bonus and **Exhibit A(III)** New Business Bonus. The term "Compensation" does not include a Producer Service Fee.
- F. ELIGIBLE LIVES:** Both full-time and part-time employees working no less than twenty (20) hours per week as determined by the group who are eligible to purchase Insurer diversified benefits coverage as outlined for Life and Disability Products.
- G. INSURER:** CareFirst of Maryland, Inc., Group Hospitalization & Medical Services, Inc., CareFirst BlueChoice, Inc., First Care, Inc. and any of their subsidiaries or affiliates.
- H. GROUP:** is the employer, account, academic institution or association applying to Insurer and in whose name the Group Contract is issued.
- I. GROUP SUBSCRIBER/SUSCRIBER:** an eligible employee, COBRA Subscriber or eligible student of Student Health Plan Academic Institution Contract who has enrolled for coverage through his/her Group with Insurer.
- J. GROUP CONTRACT:** is the Agreement or other arrangement between Insurer and the Group under the terms and conditions of which health services are reimbursed for, or provided to, employees or members of the Group.
- K. LARGE GROUP:** An employer who employed an average of at least fifty-one (51) eligible employees based on the full-time equivalent calculation during the preceding calendar year.
- L. PREMIUM:** the periodic payment to Insurer required to keep the Group Contract in force.
- M. PRODUCER:** A person or entity duly licensed in all applicable Service Areas and appointed by Insurer to solicit insurance contracts and who is party to this Agreement.
- N. PRODUCER SERVICE FEE (PSF):** A fee negotiated between a Large Group and the Producer, as remuneration to the Producer for services provided to the Group, for which the Group and the Producer have executed and submitted to Insurer a Producer Service Fee Collection Agreement.
- O. PRODUCER SERVICE FEE COLLECTION AGREEMENT:** An agreement between Producer and a Large Group, executed on the form specified by Insurer, for purposes of authorizing Insurer to administer and collect a PSF on behalf of Group.
- P. SMALL GROUP:** An employer who employed an average of at least 1 but not more than fifty (50) eligible employees based on the full-time equivalent calculation during the preceding calendar year.

Q. STATEMENT OF ACCOUNT: A statement which details on a regular basis all Compensation remitted to Producer for each Group where Insurer received paid Premium for the given period Compensation was remitted.

R. STOP-LOSS INSURANCE POLICY: An insurance policy purchased by a self-funded employer which provides reimbursement for catastrophic claims exceeding predetermined levels. The policy provides coverage for large claims incurred by a single individual (specific Stop-loss) and coverage for higher than anticipated claims for the entire health plan (aggregate Stop-loss). Specific and aggregate coverage can be written together or separately.

S. STUDENT HEALTH PLAN: Academic Institution (Institution for Higher Education) Contract.

III. SCOPE OF AGREEMENT.

This Agreement shall apply to business that is sold through a State or Federally Facilitated Exchange (On Exchange) and business that is sold directly through the Insurer and not through an Exchange (Off Exchange) in the large and small group markets as defined by applicable Federal and State law. To the extent that this Agreement is in direct conflict with rules promulgated by an Exchange, then such provision or portion of the Agreement shall not apply to the extent of that conflict.

IV. AUTHORITY AND RESPONSIBILITIES OF PRODUCER.

A. Authority.

Insurer authorizes Producer to solicit insurance business as set out herein and take other actions specifically enumerated in this Agreement in the jurisdictions approved by Insurer for Group Contracts. Producer is authorized to record and submit enrollment applications for disposition by Insurer.

Producer has no authority to act on Insurer's behalf except as expressly provided in this Agreement. Producer is not authorized, and agrees not to, enter into, alter, deliver or terminate any benefit contract or policy on behalf of Insurer. Producer may not alter or waive terms regarding enrollment, coverage, amounts to be paid or benefits of any Group Contract or policy form or bind Insurer in any way.

B. Responsibilities.

In order for Producer to provide appropriate service to Group, Producer agrees that it shall to the extent reasonable/practicable:

i. Understand.

- a. Know and understand Insurer's products and capabilities.
- b. Understand Insurer's programs and the value offered to Groups, including Insurer's Patient-Centered Medical Home ("PCMH") and Total Cost and Care Improvement ("TCCI") programs and the integrated working of all the elements and supporting components as described in the *Program*

Description and Guidelines for CareFirst Patient-Centered Medical Home Program and Total Care and Cost Improvement Program (“Guidelines”).

ii. Educate.

- a. Effectively explain Insurer’s products and programs to current and prospective Groups.
- b. Educate Groups and Group Subscribers on Insurer’s products and programs as presented in the Guidelines.

iii. Grow.

- a. Present Insurer’s quotes to current and prospective Groups for all lines of business offered by Insurer in the Group Market as appropriate.
- b. Solicit applications for all eligible lines of business to prospective Groups and solicit applications for new lines of business to current Groups.
- c. Solicit renewal of business with current Groups.

iv. Serve.

- a. Direct Groups to pay initial Premium due and make prompt delivery of such payments to Insurer.
- b. Provide service to Groups on administrative and enrollment issues.
- c. Ensure completeness of application(s) to facilitate the enrollment process through direct enrollment or other established processes.
- d. Use commercially reasonable efforts to verify and confirm the eligibility of all persons applying for enrollment and monitor and notify Groups of participation requirements.

v. Comply.

- a. Fulfill all responsibilities and obligations of this Agreement.
- b. Comply with requisite laws in performing services under this Agreement.
- c. Conform to Insurer’s requirements, standards and procedures that are communicated to Producer in writing.

C. Additional Responsibilities.

- i. Training.** Producer must successfully complete any training Insurer requires after being notified by Insurer that such training is required.

- ii. **Bankruptcy Notices.** Within two (2) business days of receipt, Producer shall send all notices regarding bankruptcy filings directly to Insurer's Legal Department, to the attention of the General Counsel for Insurer.
- iii. **Adequate Records Required.** Producer must maintain adequate books and records in accordance with applicable law. Producer agrees to maintain accurate and complete records of all transactions with and on behalf of Insurer for a period of seven (7) years at Producer's expense.
- iv. **System Updates.** Producer shall modify its systems and processes to ensure compliance and compatibility with commercially reasonable Insurer specifications.
- v. **Broker of Record and Block Transfers.** For business not administered by a General Producer or Full-Service Producer, notify Insurer of any Broker of Record or Block Transfer requests and provide all required documentation as required by the Producer Administrative Manual, including but not limited to the Producer Service Fee Collection Agreement for 51+ Fully Insured business, pursuant to Section VIII of this Agreement. Producer shall continue to service Group(s) until new Broker of Record/Block Transfer date is effective per the schedule found in the Producer Administrative Manual. Producer shall support the orderly transfer of business.

V. REQUIRED QUALIFICATIONS.

To perform services and receive Compensation under this Agreement, at the time of inception of this Agreement and at all times during the term of this Agreement, Producer shall meet the following requirements:

A. Licensing.

- i. Producer shall:
 - a. Possess and maintain, at Producer's expense, any license required by law to perform services under this Agreement.
 - b. Notify Insurer in writing of any expiration, termination, revocation, suspension or any other action by a Department of Insurance or any other governmental agency affecting licenses required to perform services under this Agreement within five (5) business days of such occurrence.
 - c. Provide copies of all licenses for itself and Producers within its employ on a continuous basis.
- ii. Producer and any representative or employee of the Producer selling Products under this Agreement must be licensed in the jurisdiction where a Group is sold to be eligible to receive Compensation.

B. Legal Obligations.

- i. **Compliance with Laws.** Producer shall remain in compliance with all applicable Federal, State and local laws. Producer shall comply with any requests made by Insurer to ensure continued compliance with any such laws.
- ii. **Federally Facilitated Exchanges.** To the extent that this Agreement delegates any duties or administrative services to the Producer relating to Federally Facilitated Exchange business, the Producer shall comply with the requirements and standards of Federal law as well as any other applicable laws or regulations. Pursuant to 45 CFR 156.340, Producer agrees to permit access to the Secretary of the Department of Health and Human Services (HHS) or the Office of Inspector General of the HHS to evaluate through audit, inspection or other means, the Producer's books, contracts, computers or other electronic systems, including medical records and documentation related to a health plan issued through a Federally Facilitated Exchange.
- iii. **State Facilitated Exchanges.** To the extent that this Agreement delegates any duties or administrative services to the Producer relating to State Facilitated Exchange business, the Producer shall comply with the requirements and standards of State law as well as any other applicable laws or regulations.
- iv. **Compliance with Privacy Laws.** Producer will comply with all applicable state and federal laws that governs the maintenance or disclosure of personal, health or financial information. Producer understands and acknowledges that while performing services under this Agreement, Producer may receive from Insurer or create or receive on behalf of Insurer certain information that is defined as Protected Health Information ("PHI") under the privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). Producer shall comply with any applicable requirements of HIPAA and shall sign and comply with the Business Associate Agreement ("BAA") attached hereto and incorporated herein by reference as **Exhibit B** prior to performing any services under this Agreement.
- v. **Violent Crimes Control Act.** Producer shall adhere to and comply with the Federal Insurance Fraud Provisions of the Violent Crime Control Act (18 USC Sec. 1033 et. seq.) and similar State laws in the performance of this Agreement.
- vi. **Equal Employment Opportunity.** Producer shall adhere to the Equal Opportunity clause set forth in 41 CFR-60-1.4, 60-250.4, and 60-741.4 as amended or revised. Producer shall support a policy which prohibits discrimination against any employee or applicant for employment, on the basis of age, race, sex, color, national origin, religion, physical or mental disability, veteran status or any other classification protected by law or ordinance.

C. Insurer Rules.

- i. **Compliance with Insurer Rules.** Producer shall conform to Insurer's rules, policies and procedures found in the Producer Administrative Manual.

- ii. **Compliance with Insurer Code of Conduct.** Producer shall comply with the policies and procedures in the Contractor Code of Ethical Business Conduct and Compliance, which is hereby incorporated by reference, and which can be found on Broker Portal at www.carefirst.com.
- iii. **Appointment.** Producer shall apply to Insurer for Appointment and must receive confirmation of Appointment from Insurer prior to handling Insurer business. Insurer may terminate a Producer's appointment at any time without terminating this Agreement in its entirety.

VI. SUPPORT SERVICES.

Insurer may offer enhanced support services to Producer based on the amount of enrollment in medical products. Should Producer qualify for one of the enhanced support service levels, Insurer will contact Producer to discuss participation, benefits and requirements. Insurer shall have complete discretion to determine what services may be available, the qualifications to receive such services, and whether Producer qualifies.

VII. ADVERTISING.

Insurer must approve, in writing, circulars, advertisements or other materials containing Insurer symbols, service marks, trademarks or trade names.

VIII. ADMINISTRATION OF PRODUCER SERVICE FEE.

For new and renewing fully insured Large Group medical products and Student Health Plans, a Group may choose to have Insurer administer a Producer Service Fee negotiated between the Producer and the Group. If applicable, the amount of such fee to be administered by Insurer shall not exceed 5% of the total premium for medical and pharmacy insurance purchased by Group from Insurer. Insurer will not administer a Producer Service Fee except subject to the terms of a Producer Service Fee Collection Agreement executed by Group and Producer on the form specified by Insurer, and after such agreement is accepted by Insurer. Insurer's administration will be subject to the terms and conditions set forth in the Producer Service Fee Collection Agreement and any addenda thereto and any other terms and conditions established by Insurer. Insurer's obligations to administer a Producer Service Fee shall terminate if the Producer Service Fee Collection Agreement terminates.

IX. COMPENSATION.

- A. **Payments to Producer.** Insurer agrees to pay Producer in accordance with **Exhibit A**. Insurer shall determine, at Insurer's sole discretion, which Premiums and Group Contracts paid by the Group or Subscriber are subject to payment of Compensation.
- B. **Modification or Termination of Compensation.** Insurer may terminate or amend **Exhibit A** by giving thirty (30) days' prior notice to Producer.

C. Payment.

- i. **Commission:** For Small Group business, Large Group, Self-Insured Business, Dental Business, Vision Business, Life and Disability Products and CareFirst underwritten Stop-loss coverage, Stop-loss Commission shall be earned and payable monthly for Group Subscribers for which Premium or Administrative Fees have been paid and reconciled. To be eligible for payment of Commission, Producer must be retained as Producer of Record by the Group and recognized and appointed as such by Insurer.
- ii. **Net Growth Bonus:** Net Growth Bonuses shall be paid in accordance with the Net Growth Bonus terms in **Exhibit A**.
- iii. **Group New Business Bonus:** The Group New Business Bonus shall be paid in accordance with the Group New Business terms in **Exhibit A**.

D. Opt-Out of Bonus Program. Producer has the right to opt out of any Bonus Program in its entirety or for any given group by providing written notice to the Insurer on or before thirty (30) days prior to the end of the applicable Agreement term.

E. No Additional Compensation. Producer shall not accept any portion of a Full Service or General Producer's compensation as additional compensation, fee or incentive if not expressly allowed under this Agreement.

F. Adjustments.

- i. Producer shall repay to Insurer, on demand, all Compensation previously allowed and paid on any refunded Premium. Form of payment is at Insurer's discretion.
- ii. Either Party may notify the other in writing, of any objection or correction to the Statement of Account, similar insurance record or payment. Absent fraud or intentional misrepresentation on the part of Insurer, such notice must be made within eighteen (18) months of issuance of the Statement of Account, similar insurance record or payment. No interest shall be due on any resulting adjustment absent fraud or intentional misrepresentation on the part of Insurer.
- iii. Any indebtedness of Producer to Insurer arising from this Agreement, any prior Agreement or any transaction between Producer and Insurer, shall be a First Lien on any Compensation due or to become due the Producer under this Agreement and may be applied as a set-off against any moneys due or which become due by Insurer to Producer limited to Off-Exchange Business.

G. No Compensation for Consulting. This Agreement shall not be construed to allow Commission where Producer's services were performed on a consultant basis and Producer accepts compensation from the Group for such services.

X. TERM AND TERMINATION.

- A. Term.** The term of this Agreement shall be for a period of one (1) year (“Agreement Term”) and annual revisions made by the Insurer will be communicated to Producer in writing for successive one (1) year periods unless terminated earlier in accordance with this Section.
- B. Non-Renewal.** Either Party may terminate this Agreement at renewal by providing thirty (30) days written notice prior to the renewal date.
- C. Termination Without Cause.** Either Party may terminate the Agreement within the Agreement term by giving thirty (30) days written notice. Termination shall take effect immediately and automatically upon the date stated in the notice so given.
- D. Termination upon Cessation of Producer’s Business.** This Agreement shall terminate automatically upon Producer’s death, dissolution, receivership, insolvency, or bankruptcy and no Compensation shall accrue on or following the effective date of such termination. Insurer shall immediately cease to recognize the Producer as a Broker of Record on all Groups.
- E. Termination for Cause.** Insurer may terminate this Agreement for cause immediately by notifying Producer in writing of the effective date of termination. The following events/occurrences will constitute cause for termination:
- i. Fraud and/or Dishonest Acts.** Commission of or knowingly assisting another in the commission of fraudulent and/or dishonest activity in connection with the services under this Agreement.
 - ii. Loss of License.** Termination, expiration or suspension of Producer’s licenses as required by law. Insurer may consider reinstatement after any suspension period. Whether reinstatement of this Agreement shall occur will be solely at the discretion of Insurer after the submission and approval of a new Producer application and upon such terms and conditions as may be prescribed by Insurer.
 - iii. Intentional Interference with Business Relationship.** Commission of or knowingly assisting another in the commission of any knowing or intentional act that interferes with the business relationship between Insurer and any of its customers, accounts and/or employees, and/or Insurer’s Producers except where Producer is acting in accordance with good business practices and in the interest of Producer’s client.
 - iv. Producer’s Breach.** Producer breaches a material term of this Agreement or fails to meet any Required Qualifications stated in this Agreement.
 - v. Conviction.** Producer is convicted of a felony or a crime of moral turpitude.
- F. Effects of Termination.**
- i. No Solicitation Permitted.** Producer may not solicit or sell on behalf of Insurer after the Agreement has been terminated.

ii. Compensation.

- a. Termination without Cause.** If Insurer terminates this Agreement without cause under Section C, Commission shall continue to be payable for the duration of existing Group plan year so long as the terminated Producer remains the Broker of Record, meets all qualifications in Section V, and business remains with Insurer. No Bonus shall accrue on or following the effective date of such termination.
- b. Termination for Cause.** If the Agreement is terminated for cause, no Compensation shall accrue on or following the effective date of such termination. Producer will immediately cease to be recognized by Insurer as a Broker of Record on all Groups.
- c. Termination for Cause for Fraud and/or Dishonest Acts.** In the event of termination for fraud or dishonesty, Insurer may recover any Compensation paid to Producer after Producer engaged in, or knowingly assisted another to commit, the fraudulent or dishonest act without regard to when the Producer earned such Compensation.

G. Survival. The following terms shall survive termination of this Agreement: Adequate Records, Section IV(C)(iii); Compliance with Privacy Laws, Section V(B)(iv); Adjustments, Section IX(F); Audit, Section XI; Indemnification, Section XII(A); Agreement is Confidential, Section XIII(C); and, Proprietary Information, Section XIII(D).

XI. AUDIT.

- A. Audit.** During the term of this Agreement and any applicable record retention period, upon reasonable notice, Producer shall permit Insurer or any authorized representative of Insurer to inspect and audit all information and records related to services Producer performs for Insurer under this Agreement.
- B. Provide Information upon Request.** Producer shall provide Insurer with all information and copies of documents requested by Insurer relating to the services provided by Producer under this Agreement at Producer's cost.

XII. INSURANCE AND INDEMNIFICATION.

- A. Indemnification.** Producer agrees to indemnify and hold harmless the Insurer from and against any and all claims, loss, damage, injury, expense and liability arising out of or resulting from, or in any way connected with matters arising under this Agreement or by any negligence or willful misconduct on the part of the Producer or Producer's employees. Damages subject to indemnification under this Section may include, but are not limited to, compensatory, punitive, costs and attorney fees. Producer agrees that Insurer will be held harmless for any liability that results from misrepresentation or any other negligent error or omission by Producer or Producer's employees.

B. Confidentiality. With respect to any nonpublic or proprietary information furnished by either party or its agents or representatives to the other party or its agents and representatives, whenever furnished and regardless of the manner or media in which such information is furnished, which the receiving party knows or reasonably should know to be confidential, each party shall treat such information as confidential and only use it in the performance of its obligations under this Agreement. All Group, Subscriber and other customer information disclosed to each other in furtherance of this Agreement shall remain confidential and shall not be disclosed by the receiving party to any individual, corporation, other business organization or governmental agency without the disclosing party's written consent unless required by law, or as necessary for the performance of the Party's duties related to the services it provides under this Agreement or as allowed under this Agreement. The parties shall use such Group, Subscriber or other customer information solely in connection with this Agreement and for no other purpose whatsoever. This Section shall survive termination of this Agreement.

C. Insurance.

i. Producer shall maintain Errors and Omissions Insurance, Privacy Liability Insurance and Commercial General Liability Insurance in amounts and in forms standard and adequate for Producer's business and agreeable.

a. **Errors & Omissions Insurance.** Producer shall maintain Errors & Omissions coverage with a carrier having an A.M. Best rating of not less than A- or captive approved by Insurer with a minimum \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. The Errors & Omissions policy shall provide for coverage for duties and responsibilities set forth in this Agreement. If the aforementioned policy is written on a claims-made basis, the retroactive date of the policy, if any, shall precede or be concurrent with any prior periods in which Producer had an in-force Agreement with Insurer.

b. **Cyber Liability Insurance.** Producer shall maintain Cyber Liability Insurance with an aggregate limit based on members as follows:

<u>Members</u>	<u>Limit</u>
1-3,999	\$ 250,000.00
4,000-7,999	\$ 350,000.00
8,000-11,999	\$ 450,000.00
12,000-15,999	\$ 550,000.00
16,000-19,999	\$ 600,000.00
20,000-29,999	\$ 650,000.00
30,000-39,999	\$ 750,000.00
40,000-49,999	\$ 800,000.00
50,000-59,999	\$ 950,000.00
60,000-79,999	\$ 1,000,000.00
80,000-99,999	\$ 5,000,000.00
100,000+	\$ 10,000,000.00

c. **Commercial General Liability Insurance.** Producer shall maintain commercial general liability insurance with a minimum \$1,000,000.00 per occurrence and \$2,000,000.00 aggregate. The policy must provide for \$1,000,000.00 per

occurrence for bodily injury/property damage; \$1,000,000.00 per occurrence for personal injury/advertising injury; \$2,000,000.00 per occurrence for products and completed operations aggregate; and \$1,000,000.00 per occurrence for fire legal liability.

- ii. A current Certificate of Insurance (COI), or other evidence acceptable to Insurer must be on file with Insurer and shall be submitted to Insurer in a form and manner dictated by Insurer.
- iii. Producer must immediately notify Insurer in writing if Producer's insurance terminates, is cancelled, suspended, or changes in a material way, including but not limited to a change in the amount of insurance. Producer shall provide ten (10) days' notice prior to any lapse in insurance coverage.

XIII. GENERAL AND ADMINISTRATIVE.

- A. Assignment.** Neither this Agreement nor the authority conferred hereunder is transferable or assignable by Producer unless Insurer has provided prior written consent thereto to Producer. Transfer or assignment of Compensation is prohibited unless Insurer has provided prior written consent thereto to Producer. Insurer may assign this Agreement to any affiliate, subsidiary or successor in interest without the consent of Producer.
- B. Relationship of the Parties.** This Agreement does not, nor is it intended to, in any way create a relationship of joint venture, partnership, employee/employer or general agency between Producer and Insurer.
- C. Agreement is Confidential.** Insurer and Producer agree to safeguard, maintain and preserve the confidentiality of this Agreement during the life of the Agreement and after termination. At no time may the provisions or terms of this Agreement be disclosed to a third party unless required by law or requests for information or documents in legal proceedings.
- D. Proprietary Information.** Proprietary information disclosed by one party to the other party under this Agreement shall be and remain the sole and exclusive property of the disclosing party. The receiving party shall maintain the confidentiality of such proprietary information. The receiving party shall not disclose, in whole or in part, any proprietary information provided by the disclosing party without the express prior written consent of the disclosing party.
- E. Choice of Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Maryland.
- F. Entire Agreement.** This Agreement constitutes the full and entire understanding of the parties and supersedes any and all prior representations, statements, or agreements between them.
- G. Amendment.** This Agreement may be modified or amended only in writing signed by both parties.
- H. Severability.** If any part, term or provision of this Agreement shall be held void, illegal, or unenforceable for any reason, the validity of the remaining Agreement shall not be affected.

- I. **No Waiver.** Failure of either party at any time to require performance of any of the provisions or obligations created under this Agreement shall in no way affect the right of either party thereafter to enforce the same. No delay in acting with regard to any breach of this Agreement shall be a waiver of the breach.
- J. **Headings.** Headings are intended as reference guides only and are not to be considered part of the Agreement.
- K. **Signatory Authority.** Each signatory hereto certifies and warrants that all necessary authority and approvals have been obtained and that this Agreement is validly executed by an authorized officer or Producer and is binding upon such party and enforceable in accordance with its terms.
- L. **Notices.** All notices pertaining to this Agreement shall be in writing unless otherwise agreed to by both parties, shall be sent by first-class mail, postage paid, or in the alternative by email with return receipt requested and addressed to:

For Insurer:

Rebecca Greenberg
Director
Broker Administration & Compliance
CareFirst BlueCross BlueShield
Mail Stop: OWML2-25009
10455 Mill Run Circle
Owings Mills, MD 21117-5559

For Producer:

The "Responsible Individual" as indicated on the following page or to the individual immediately below if notice should be provided to a different party.

Email: _____

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY BLANK]

Option 1 - Producer contracting under a Federal Tax ID:

PRODUCER/AGENCY Name: _____

PRODUCER Tax ID: _____

National Producer Number: _____

Maryland License Number: _____ Issued: _____ Expiration: _____

District of Columbia License Number: _____ Issued: _____ Expiration: _____

Virginia License Number: _____ Issued: _____ Expiration: Perpetual

List below the “Responsible Individual” (or “Principal and Primary Decision Maker”) for your Producer/Agency. Note: *In Maryland and in the District of Columbia, the person we request be identified below is the same person that the Producer designated as their “Responsible Individual” on their state licensing forms. In Virginia, the person is commonly referred to as the “Principal and Primary Decision Maker” for Producers/Agencies.*

“Responsible Individual” Name: _____

“RI” Social Security Number: _____

“RI” Email: _____

National Producer Number: _____

Maryland License Number: _____ Issued: _____ Expiration: _____

District of Columbia License Number: _____ Issued: _____ Expiration: _____

Virginia License Number: _____ Issued: _____ Expiration: Perpetual

Option 2 - Producer contracting under a personal SSN:

PRODUCER/AGENCY Name: _____

PRODUCER Social Security Number: _____

National Producer Number: _____

Maryland License Number: _____ Issued: _____ Expiration: _____

District of Columbia License Number: _____ Issued: _____ Expiration: _____

Virginia License Number: _____ Issued: _____ Expiration: Perpetual

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURE PAGE TO FOLLOW]

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

FOR PRODUCER:

Signature: _____ Date: _____

Printed Name: _____ Title: _____

Address: _____ City: _____

_____ State: _____

County: _____ Zip: _____

Email: _____ Phone: _____

FOR INSURER:

Signature: _____ Date: _____

Printed Name: David Corkum Title: Executive Vice President,
CareFirst BlueCross BlueShield

<h2 style="margin: 0;">EXHIBIT A</h2> <h3 style="margin: 0;">GROUP PRODUCER COMPENSATION SCHEDULES</h3>

Licensed Producers who are appointed with Insurer will be eligible to receive Compensation designed to cumulatively reward performance in three primary categories:

- **Commission** – Paid monthly for Small Group products, Self-Insured Medical Business, Dental Business, Vision Business, Stop-loss Business underwritten by CareFirst and Life and Disability Products in exchange for services provided by Producer and described in this Agreement.
- **Net Growth Bonus** – Paid annually using the weighted value of each product for the year-over-year growth of Group Subscribers with Insurer, to reward the Producer for their annual retention and growth of Group business with Insurer.
- **New Business Bonus** – One-time payment per product and Group Subscriber to reward the Producer for their ongoing production of new Group business with Insurer.

I. COMMISSION.

Paid monthly per product and Group Subscriber, to reward the Producer for services provided by Producer and described in this Agreement.

A. Small Groups 1-50.

Fully Insured Business Only. Commission is paid monthly per product and Group Subscriber, based on the amounts outlined in the table below.

Medical & RX	PSPM
MD Indemnity-Grandfathered Group over 65	\$12.00
BlueChoice HMO, HMO Referral, Plus, Advantage (BlueFund or Compatible)	\$26.00
HealthyBlue HMO, HB Plus, HB Advantage, HB PPO (BlueFund or Compatible)	\$26.00
BluePreferred PPO HSA/HRA/HDHP (BlueFund or Compatible)	\$18.00
NON-Medical	
Vision	\$2.00
Dental	\$6.00

B. Large Groups 51+ and Student Health Plans.

i. Medical Fully Insured Business.

- a. New and Renewing Fully Insured Business.** No Commission shall be paid for 51+ Fully insured medical business. Student Health Plans are also excluded from commissions. Instead of Commission, Producer may be paid a Producer Service Fee as agreed upon between Producer and Group. If no Producer Service Fee Collection Agreement is received by Insurer, no Producer Service Fee shall be paid to Producer.

- ii. **Self-Insured Business.** Commission is based on an amount negotiated between Producer and Group and accepted by Insurer. To be eligible for payment, the final commission amount and applicable terms must be documented in writing with the Group and the Insurer.
- iii. **Dental Business.** Commission is based on a percentage of Premium as submitted by Producer and accepted by Insurer. Dental Business Commission cannot exceed 10.0% of Premium.
- iv. **Vision Business.** Commission is based on a percentage of Premium as submitted by Producer and accepted by Insurer. Vision Business Commission cannot exceed 10% of Premium.
- v. **CareFirst Stop-loss Insurance Business.** Commission is based on percentage of Premium as submitted by Producer and accepted by Insurer. Stop-loss Commission cannot exceed 15% of Premium.

C. Life and Disability Products.

- i. Commission is paid monthly based on annual Premium received from each Group as outlined in Table 1 below. Annual Premium for each Product and contribution type is applied separately.

Table 1 – Applies to all 2-50 groups and is available for 51+

	Annual Paid Premium			
	First \$15,000	Next \$25,000	Next \$25,000	Next \$1,000,000+
Product	Commission Rates			
Basic Life with AD&D (Non-Contributory)	10%	7%	5%	1%
Supplemental Life with AD&D (Contributory - includes employee, spouse, dependent coverages)	15%			

	Annual Paid Premium			
	First \$15,000	Next \$25,000	Next \$25,000	Next \$1,000,000+
Product	Commission Rates			
Short Term Disability (Non-Contributory)	10%	7%	5%	1%
Short Term Disability (Contributory)	15%			
Long Term Disability (Non-Contributory)	15%	10%	5%	1%
Long Term Disability (Contributory)	15%			

- ii. For products that are both contributory and non-contributory, the contributory coverage percentage shall be applied.
- iii. For groups with 51+ Eligible Lives, separate commission rates may be available upon agreement with Insurer.
- iv. For those Groups with 51+business annual Premium exceeding \$1,000,000.00, commission rates shall be discussed and agreed upon with Insurer.
- v. Producer Block of Business Bonus: If a producer attains either the premium level or the sold accounts level, they would receive the corresponding bonus percentage at the end of that compensation year. Producers would be able to attain bonuses in both the under 100 account size and over 100 account size as follows in Table 2 and Table 3. Only one bonus will be available under each table below. The bonus level is determined by either the premium level achievement or the number of accounts sold whichever results in the higher bonus amount.

Table 2: Under 100 Lives

Premium Level	No. of Sold Accounts Level	Bonus
15K-34K	5-9	2.0%
35K-49K	10-15	2.5%
50K-99K	16-30	3.0%
100K-149K	31-45	3.5%
150K-224K	46-69	4.0%
225K-324K	70-100	4.5%
325K+	100+	5.0%

Table 3: Over 100 Lives

Premium Level	No. of Sold Accounts Level	Bonus
100K-299K	3-5	2.0%
300K-499K	6-9	2.5%
500K-749K	10-14	3.0%
750K+	15+	3.5%

D. Stop-loss Production Bonus

- i. CareFirst or CFA, LLC must be the administrator for policyholders that purchase a new Stop-loss policy with CareFirst.
- ii. The Production Bonus is calculated by multiplying the Annualized Stop-loss Paid Premium by the Annualized Award Rate times the Quarterly Factor.
- iii. The term “Annualized Stop-loss Paid Premium” means the total annualized premium of all Policies in effect on the last day of the contract quarter.
- iv. The term “Annualized Award Rate” means the annualized award rate percentage that corresponds to the Annualized Stop-loss Paid Premium based upon the following schedule for in force and paid policies:

Annualized Stop-loss Premium on Last Day of a Calendar Quarter	Annualized Award Rate
\$1 to \$1 Million	1.0%
Over \$1 Million to \$2 Million	1.5%
Over \$2 Million to \$3 Million	2.0%
Over \$3 Million to \$4 Million	2.5%
Over \$4 Million to \$6 Million	3.0%
Over \$6 Million	3.5%

- v. The term “Quarterly Factor” means 25%. For example, if CareFirst or CFA, LLC is the administrator for policyholders whose policies generate \$7.5 million of Annualized Stop-loss Premium at the end of the second quarter, Producer is eligible to receive a 3.5% annualized bonus, which would be \$65,625, calculated as follows:

$\$7.5 \text{ million Annualized Stop-Loss premium} \times 3.5\% \text{ Annualized Award Rate} \times 25\% \text{ per Quarter Factor} = \$65,625.$

- vi. The Production Bonus will be paid during the contract quarter after it is earned. For example, if Producer earns a quarterly production bonus in Q3 it will be paid forty-five (45) days after the end of the contract quarter.
- vii. To receive credit for a policy, the Producer must be licensed as a producer in the state where the policy is sold and be appointed by CareFirst in that state.

E. Limitations.

- i. Commission is only payable for Groups that are current in their applicable fully-insured Premium or administrative fee payments.

II. NET GROWTH BONUS.

The Net Growth Bonus is paid annually using the weighted value of each product for the year-over-year growth of Group Subscribers with Insurer, to reward the Producer for their annual retention and growth of Group business with Insurer.

Insurer will calculate the Net Growth Bonus at the end of each Agreement term and issue the Net Growth Bonus payment within forty-five (45) days.

Producers with a Net Growth percentage between 95% and 100% (as calculated below) will be eligible to receive up to \$2,500,000.00 for their medical and ancillary business. Producers with a Net Growth percentage of 100% or more will not be subject to this cap.

A. Definitions.

The following definitions shall apply in determining eligibility for and calculating the amount of the Net Growth Bonus.

- i. **Qualifying Contracts:** “*Qualifying Contracts*” are those Group Subscribers under Group Contracts that are attributed to the Producer in accordance with this definition and are used to determine the Net Growth Percentage.
 - a. **Included Contracts.** Except to the extent adjusted below, *Qualifying Contracts* include all insured and self-insured Group Subscribers under Group Contracts for which Premium or Fee payments are current.
 - b. **Excluded Contracts.** *Qualifying Contracts* do not include:

1. Subscribers under Group Medicare Supplemental Contracts.
 2. Subscribers under contracts for Groups that only obtain network access through Insurer, including the leasing of the Insurer's network and/or leasing arrangements involving access to out of area networks through various BlueCross BlueShield inter-plan programs.
- c. **Adjustments.** In determining the number of **Qualifying Contracts**, the following adjustments will be made:
1. If two Producers merge their business at any point during the Agreement term, the **Qualifying Contracts** of each Producer will be combined at the beginning and the end of the Agreement term for calculating the Net Growth Bonus.
 2. When a Producer gains a Group through the issuance of a Broker of Record letter during the Agreement term, and the Group was already covered by the Insurer, the Group's subscribers at the time of the transfer shall be removed from the Producer's ending **Qualifying Contracts**.
 3. When a Producer loses a Group through the issuance of a Broker of Record letter during the Agreement term, but the Insurer retains the Group, the Group's subscribers at the time of the transfer shall be added to the Producer's ending **Qualifying Contracts**.
 4. Separate legal entities, i.e. entities with separate tax identification numbers, may not combine books of business when counting the number of **Qualifying Contracts**. Producer agrees that it will not create partnerships or use other devices as a means of combining business for purpose of receiving bonus payments. Insurer may require evidence related to legal entity status.
 5. If a Group is lost during the year over which the Net Growth Bonus is measured, the reduction in the number of **Qualifying Contracts** attributable to that Group shall be capped at 2,000. The Producer's actual ending enrollment will be used as the starting enrollment for the next year.
- ii. **Adjusted Qualifying Contracts:** "**Adjusted Qualifying Contracts**" are the **Qualifying Contracts** attributed to the Producer that are used to calculate the amount of the Net Growth Bonus.

a. **Adjustments.** In determining the number of **Adjusted Qualifying Contracts**, the following adjustments will be made:

1. A cap of 2,000 total weighted contracts shall be applied to every Group as shown in Table 1.
2. If a group is lost during the contract year over which the Net Growth Bonus is measured, no contracts from the lost group shall apply to the **Adjusted Qualifying Contracts**.
3. Subscribers that were gained through the issuance of a Broker of Record transfer during the agreement term shall be included in the Producer's **Adjusted Qualifying Contracts**.
4. Subscribers that were lost through the issuance of a Broker of Record transfer during the agreement term shall be removed from the Producer's **Adjusted Qualifying Contracts**.

B. Eligibility for a Net Growth Bonus.

i. To earn a Net Growth Bonus, a Producer must:

- a. At the end of the Agreement term, have a book of business with the Insurer that includes at least five (5) Groups totaling 200 **Qualifying Contracts** or at least one (1) Group totaling 200 **Qualifying Contracts**; and
- b. Achieve net growth of at least 95% as calculated below.

C. How the Net Growth Bonus Is Calculated:

Insurer will perform the following steps to calculate the Net Growth Bonus:

Step 1: At the beginning of the Agreement term, count the number of Qualifying Contracts for each Product/Market segment in the Producer's book-of-business (Refer to Table 1 for Product/Market segment categories).

Step 2: Apply the product weighting factor to each of the Qualifying Contract totals by Product/Market segment, to determine the weighted number of Qualifying Contracts. (Refer to Table 1 for the product weighting factor for each Product/Market segment).

Step 3: Add together the total number of weighted Qualifying Contracts by Product/Market segment to determine the **Beginning # of Weighted Qualifying Contracts**.

Step 4: Repeat Steps 1, 2, and 3 at the end of the Agreement term, to calculate the **Ending # of Weighted Qualifying Contracts**.

Step 5: Using the Net Growth Percentage calculation in Formula 1, divide the **Ending # of Weighted Qualifying Contracts** by the **Beginning # of Weighted Qualifying Contracts** and multiply that amount by 100 to determine the **Net Growth %** for the Agreement term.

Step 6: Apply the **Ending # of Weighted Qualifying Contracts** to Table 2 to determine the **Qualifying Contract Level**, then apply the **Net Growth %** to Table 2 to determine the corresponding **Per Contract Rate**.

Step 7: Adjustments to **Qualifying Contracts** must be applied in order to calculate the amount of the Net Growth Bonus. Refer to section II.A.ii.a. above to calculate the **Ending # of Adjusted Qualifying Contracts**.

Step 8: Using the Net Growth Bonus calculation in Formula 2, multiply the appropriate **Per Contract Rate** by the **Ending # of Weighted Adjusted Qualifying Contracts** to determine the **Net Growth Bonus**.

Table 1: PRODUCT/MARKET SEGMENT WEIGHTING FACTOR								
Market Segment	Medical	Pharmacy	CareFirst Underwritten Stop-loss	Preferred Stop-loss	Dental	Vision	Disability	Group Life
Fully Insured Groups	100%	Included	Not Available	Not Available	5%	5%	5%	5%
Self-Insured Groups	50%	30%	20%	10%	5%	5%	5%	5%

Formula 1: Net Growth Percentage

$$\left(\frac{\text{Ending \# of Weighted Qualifying Contracts}}{\text{Beginning \# of Weighted Qualifying Contracts}} \right) \times 100 = \text{Net Growth \%}$$

Table 2: RATE PER QUALIFYING CONTRACT							
Qualifying Contract Level	Net Growth 94.5%-97.49%	Net Growth 97.5%-99.49%	Net Growth 99.5%-102.49%	Net Growth 102.5%-105.49%	Net Growth 105.5%-109.49%	Net Growth 109.5%-112.49%	Net Growth 112.5%+
1000+	\$25	\$55	\$75	\$85	\$95	\$110	\$125
500-999	\$20	\$45	\$60	\$70	\$80	\$90	\$100
200-499	\$15	\$35	\$45	\$55	\$60	\$65	\$75

Formula 2: Net Growth Bonus

$$\text{Contract Rate} \times \text{Ending \# of Weighted Adjusted Qualifying Contracts} = \text{Net Growth Bonus}$$

III. NEW BUSINESS BONUS.

One-time payment per product category and group subscriber. The new business bonus is paid to the agency the month following the effective date of the new business to reward the Producer for their ongoing production of new Group business with Insurer.

Applies to Group Contract for fully insured business and self-insured business (including CFA and NCAS) that is written for a Group that had no prior Group coverage with Insurer, or is written for a former Group whose Group Contract with Insurer has lapsed, been cancelled or expired for a period of six (6) months (180 calendar days) or more (“Group New Business”).

The new business bonus under this contractual arrangement does not apply to Student Health contracts.

Group New Business is capped at 2,000 Group Subscribers per Group.

In order for the New Business Bonus to take effect, the new group must stay with CareFirst through the contract period or any bonus paid will be recouped.

A. Business Bonus Schedule.

The Group New Business Bonus is calculated by multiplying the Group Subscriber count for Group New Business by the New Business Contract Rate in Table 3, using the applicable market segment and product category.

Table 3: NEW BUSINESS CONTRACT RATE*							
Market Segment	Medical	Pharmacy	CareFirst Underwritten Stop-loss	Dental	Vision	Disability	Group Life
Fully Insured Groups	\$125	Included	Not Available	\$10	\$0	\$10	\$10
Self-Insured Groups	\$40	\$8	\$2	\$2	\$2	Not Available	Not Available

*Each individual product is treated according to its own risk structure. For example, if Medical is self-insured and dental is fully insured, dental is paid at the rate of \$10.

EXHIBIT B

BUSINESS ASSOCIATE AGREEMENT

This Exhibit B amends and is incorporated into each underlying agreement in effect between CareFirst of Maryland, Inc. dba CareFirst BlueCross BlueShield on behalf of itself and CareFirst-Related Companies (“Covered Entity”) and Company, (collectively “the Parties”) and will, in addition, be incorporated automatically into each and every agreement into which the Parties and/or between Company and any CareFirst-Related Company enter henceforth (collectively referred to as the “Agreement”).

WHEREAS, Covered Entity is committed to complying with the requirements of Subtitle F of Title II of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 Code of Federal Regulations Part 160-164) (the “HIPAA Rules”).

WHEREAS, Covered Entity is committed to complying with the Model Regulation prepared by the National Association of Insurance Commissioners to implement at the State level Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) (“GLB Regulations”).

WHEREAS, Company is committed to complying with the HIPAA Rules and GLB Regulations.

WHEREAS, Company will have access to and/or receive from Covered Entity and/or create on behalf of Covered Entity certain Protected Health Information and Nonpublic Personal Information that can be used or disclosed only in accordance with this Exhibit, the HIPAA Rules and GLB Regulations.

NOW, THEREFORE, Covered Entity and Company (collectively “Parties”) agree as follows:

I. DEFINITIONS

Capitalized terms that are defined in this Exhibit, either below or in the provision(s) in which they appear, will have the meanings set forth in such definitions. Capitalized terms used in this Exhibit, which are not defined in this Exhibit, will have the meanings ascribed to them in the HIPAA Rules.

CAREFIRST-RELATED COMPANY means any entity that directly or indirectly owns or controls, is owned or controlled by, or is under common ownership and control with Covered Entity.

DHHS means the U.S. Department of Health and Human Services or any successor agency of the United States.

GLB REGULATIONS means the Model Regulation prepared by the National Association of Insurance Commissioners to implement at the State level Title V of the Gramm-Leach-Bliley Act (15 U.S.C. § 6801 et seq.) When the following terms are capitalized in this Exhibit, they will have the same meaning ascribed to them in the GLB Regulations:

- Nonpublic Personal Information
- Nonpublic Personal Financial Information or NPFI
- Nonpublic Personal Health Information

HIPAA means the Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, its implementing regulations (45 C.F.R. Parts §160-164) and any guidance issued by DHHS regarding requirements of HIPAA in each instance as amended from time to time.

HIPAA RULES mean, collectively, the requirements of HIPAA applicable to business associates. HIPAA Rules include:

- Privacy Rule
- Standards for Electronic Transactions
- Security Rule
- HITECH Act – The Health Information Technology for Economic and Clinical Health Act, as incorporated in the American Recovery and Reinvestment Act of 2009.
- Final Omnibus HIPAA/HITECH Rules (78 Fed. Reg. 5566 (Jan. 25, 2013)) (“the Final Rules”).

SUBCONTRACTOR means any Producer, vendor or subcontractor of Company that performs services involving the receipt, use, disclosure creation, maintenance, and/or creation transmission of Personal Health Information (PHI) on behalf of Covered Entity or on behalf of Company.

II. PRIVACY OF PROTECTED HEALTH INFORMATION

- A. Company agrees to use and disclose the minimum necessary PHI and NPFI (or a limited Data Set, if practicable) it creates or receives for or from Covered Entity only as permitted by the Privacy Rule, as expressly permitted by this Exhibit, and only as necessary to perform functions, activities or services for, or on behalf of, Covered Entity as specified in the Agreement. Company is prohibited from using or disclosing PHI and NPFI in its possession, except as permitted or required by this Exhibit, or as required by law, the Agreement, or as otherwise expressly permitted in writing by Covered Entity.
- B. Company will disclose PHI and NPFI for the purposes authorized by this Exhibit only
 1. To its employees
 2. To its Subcontractors, only in accordance with paragraph F of this Section 2
 3. As directed by Covered Entity in writing
 4. As otherwise permitted by the terms of this Exhibit, or
 5. As required by law
- C. Unless otherwise limited herein or prohibited by law, Company is authorized by this Exhibit to use the PHI it creates or receives for or from Covered Entity if necessary, for Company's proper management and administration or to fulfill any present or future legal responsibilities of the Company.
- D. Unless otherwise limited herein or prohibited by law, Company is authorized by this Exhibit to disclose such PHI to a third party if necessary for Company's proper management and administration or to fulfill any present or future legal responsibilities of the Company, provided that the disclosure is required by law or the Company obtains reasonable assurance, evidenced by written contract, from any third party to which Company discloses such PHI, that the third party will:
 1. Hold such PHI in confidence and use or further disclose it only for the purpose for which Company disclosed it to the third party or as required by law; and
 2. Notify Company (who will in turn notify Covered Entity according to the terms of Section 6, B of this Exhibit) of any breaches of confidentiality.
- E. Except as permitted by the Agreement, this Exhibit or in writing by Covered Entity, Company will:

1. Not develop any list, description or other grouping of individuals using NPI in its possession
 2. Not use or disclose any list, description or other grouping of individuals that is derived using such NPI in its possession
 3. Use appropriate safeguards to prevent use or disclosure of PHI or NPI
- F. Company agrees that as required by the HIPAA Rules, Company will enter into a written contract with all Subcontractors that:
1. Requires them to comply with the Privacy and Security Rule provisions of this Exhibit in the same manner as required of Company; and
 2. Notifies such Subcontractors that they will incur liability under the HIPAA Rules for non-compliance with such provisions Accordingly, Company shall ensure that any Subcontractors agree to the same privacy and security restrictions, conditions and requirements that apply to Company with respect to PHI. Company upon request will provide to Covered Entity a copy of the written contract with the Subcontractor.
- G. Company may disclose PHI to a Subcontractor only to the extent not prohibited by the Agreement and subject to the terms of this Exhibit. Further, Company will disclose to its Subcontractor only the minimum necessary PHI to perform or fulfill a specific function required or permitted hereunder.
- H. Company will ensure all PHI information is properly encrypted and policies and procedures are in place to verify non-compliance.

III. PHI ACCESS, AMENDMENT AND DISCLOSURE ACCOUNTING

- A. Within fifteen (15) business days following the request of Covered Entity, Company will:
1. Make available to Covered Entity for inspection and to make copies, any PHI about the individual which Company created or received for or from Covered Entity and that is in the custody of control of the Company as required by 45 C.F.R. §164.524 and, where applicable, the HITECH Act. Company will make such information available in an electronic format where directed by Covered Entity.
 2. Make available PHI for amendment or permit Covered Entity access to amend any portion of the PHI which Company created or received for or from Covered Entity, as required by 45 C.F.R. §16.4.526.
- B. As required by 45 C.F.R. §164.528, Company will record for each disclosure of PHI, not excepted from disclosure accounting below, that Company makes to a third party (item 1-4, collectively “Disclosure Information”);
1. The disclosure date
 2. The name and (if known) address of the person or entity whom Company made the disclosure
 3. A Brief description of the PHI disclosed
 4. A brief statement of the purpose of the disclosure
- Company further will provide any additional information to the extent required by the HITECH Act, the Final Rules and any accompanying regulations. For repetitive disclosures Company makes to the same person or entity for a single purpose, Company will provide:
- i. The disclosure information for the first of these repetitive disclosures
 - ii. The frequency or number of these repetitive disclosures
 - iii. The date of the last of these repetitive disclosures
- C. Company will make disclosure-tracking information available to Covered Entity within fifteen (15) business days from the date Covered Entity made the request. Company need not record

disclosure tracking information or otherwise account for disclosure of PHI that this Exhibit or Covered Entity, in writing, permits or requires:

1. For the purpose of Covered Entity's payment activities or health care operations (except where such recording or accounting is required by the HITECH Act or the Final Rules and as of the effective dates for these provisions);
 2. For the purpose of health care providers' treatment activities, or (other) covered entities' payment activities or certain health care operations (as set forth in 45 C.F.R. §164.506(c)(4))
 3. To the Individual who is the subject of the PHI disclosed
 4. Which are incidental to a use or disclosure otherwise permitted or required
 5. Pursuant to an authorization
 6. To persons involved in that Individual's care
 7. For notification for disaster relief purposes
 8. For national security or intelligence purposes
 9. To correctional institutions or law enforcement officials regarding inmates
 10. As part of a Limited Data Set
 11. For disclosures prior to April 14, 2003
- D. If Company makes disclosure of PHI for a particular research purpose in accordance with 45 C.F.R. §164.512 (i) for fifty (50) or more individuals, Company will provide Covered Entity a report of the disclosure accounting in accordance with the requirements of 45 C.F.R. §164.528(b)(4)(i)(A)-(F).
- E. Unless otherwise provided under the HIPAA Rules, Company will make available to Covered Entity an accounting of disclosures of PHI for the six (6) year period prior to the date on which Covered Entity requested the accounting.
- F. In addition, where Company is contacted directly by an individual based on information provided to the individual by Covered Entity and where so required by the HITECH Act, the Final Rules and/or any accompanying regulations, Company will make such Disclosure Information available directly to the individual.
- G. Company will comply (and Company will ensure that its Subcontractors comply) with any agreement that Covered Entity makes that either
1. Restricts use or disclosure of Covered Entity's PHI pursuant to 45 C.F.R. §164.522(a) or
 2. Requires confidential communication about Covered Entity's PHI pursuant to 45 C.F.R. §164.522(b), provided that Covered Entity notifies Company in writing of the restriction or confidential communication obligations that Company must follow.

Covered Entity will promptly notify Company 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 Company whether any of Covered Entity's PHI Information will remain subject to the terms of the restriction agreement. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 C.F.R. § 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI under this Agreement. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by an Individual to use or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI under this Agreement. Covered Entity, in performing its obligation and exercising its rights under this Agreement shall use and disclose PHI in compliance with the HIPAA Rules and shall not request Business Associate to use or disclose PHI in any manner that would violate this Agreement or the HIPAA Rules. Covered Entity represents that a request for PHI from Business Associate to Covered Entity shall only be

the minimum amount of PHI necessary to accomplish the permitted purpose of the applicable request or use.

IV. COMPLIANCE WITH STANDARD TRANSACTIONS

- A. If Company conducts all or part of an electronic transaction on behalf of Covered Entity, Company will comply and will require any Subcontractor involved with the conduct of such Standard Transactions to comply, with each applicable requirement of 45 C.F.R. Parts 160 and 162.
- B. In compliance with 45 C.F.R. §162.915, Company will not enter into, or permit any Subcontractor to enter into, any trading partner agreement in connection with the conduct of Standard Transactions for or on behalf of Covered Entity that:
 - 1. Changes the definition, data condition or use of a data element or segment in a standard
 - 2. Adds any data elements or segments to the maximum defined data set
 - 3. Uses any code or data elements that are either marked “not used” in the standard’s implementation specification or are not in the standard’s implementation specification(s)
 - 4. Changes the meaning or intent of the standard’s implementation specification(s), as these terms are defined in 45 C.F.R. Part 162

V. SAFEGUARDS FOR SECURING ELECTRONIC PROTECTED HEALTH INFORMATION (E PHI)

- A. Company will develop, implement, maintain, and use appropriate administrative, technical and physical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of EPHI (“Safeguards”) that Company creates, receives, maintains, or transmits on behalf of Covered Entity as required by the Security Rule, 45 C.F.R. part 164, Subpart C and as required by the HITECH Act and the Final Rules. Company also will develop and implement policies and procedures that meet the Security Rule documentation requirements as required by the HITECH Act and the Final Rules.
- B. Company agrees to mitigate, to the extent practicable, any harmful effect that is known to Company resulting from a use or disclosure of EPHI by Company in violation of the requirements of this Section.
- C. Company will document and keep these Safeguards current. Upon Covered Entity’s request, Company will provide Covered Entity with access to and copies of documentation regarding such Safeguards. These Safeguards will extend to transmission, processing and storage of EPHI. Transmission of EPHI will include transportation of storage media, such magnetic tape, disks or compact disk media, from one location to another.

VI. REPORTING NON-PERMITTED DISCLOSURE OR BREACHES

- A. Company will report to Covered Entity any use or disclosure of PHI and/or NPFI not permitted by this Exhibit, by the Agreement, or in writing by Covered Entity, or that is in violation of any provision of the Privacy Rule or GLB Regulations (“Non-Permitted Disclosure”) (whether such prohibited use or disclosure is by Company or by a Subcontractor) within ten (10) business days of when Company learns or should have learned of such Non-Permitted Disclosure, Breach of Unsecured Protected Health Information or suspected Breach. Company in its report to Covered Entity will identify at a minimum: each individual whose PHI has been, or is reasonably believed by Company to have been, accessed, acquired, used or disclosed as a result of the

Non-Permitted Disclosure or the Breach; the nature of the non-permitted access, use or disclosure, including the date of the Non-Permitted Disclosure or Breach and the date of discovery of the Non-Permitted Disclosure or Breach; the PHI or NPFI accessed, used or disclosed as part of the Non-Permitted Disclosure or Breach (e.g., name, social security number, date of birth, etc.); party or parties who made the non-permitted access, use and who received the Non-Permitted Disclosure or Unsecured Protected Health Information; what corrective action Company took or will take to prevent further Non-Permitted Disclosure or Breach; what Company did or will do to mitigate any harmful effect of the Non-Permitted Disclosure or Breach; and such other information, including a written report, as Covered Entity may request.

- B. Company will cooperate with Covered Entity in investigating the breach and in meeting the Covered Entity's obligations under the HITECH Act, the Final Rules and any other security breach notification laws. As provided for in 45 C.F.R. § 164.402, Company recognizes and agrees that any acquisition, access use or disclosure of PHI in a manner not permitted under the HIPAA Privacy Rule (Subpart E of 45 C.F.R. Part 164) is presumed to be a Breach. As such, Company shall assist Covered Entity in performing (or at the Covered Entity's direction, perform) a risk assessment to determine if there is a low probability that the PHI has been compromised. Company agrees to abide by Covered Entity's risk assessment.

VII. REPORTING SECURITY INCIDENTS

- A. Company agrees to the following reporting procedures for Security Incidents that result in unauthorized access, use, disclosure, modification or destruction of EPHI or interference with system operations ("Successful Security Incidents") and for security incidents that do **not** result in unauthorized access, use, disclosure, modification or destruction of EPHI or interference with system operations ("Unsuccessful Security Incidents".) In the event that a Successful Security Incident involves EPHI, then Company will also be required to submit a breach report as required by Subsection 6.A and 6.B, in addition to the report described below in Section 7.B.
- B. Company will report to Covered Entity any Successful Security Incident of which it becomes aware of within ten (10) business days. At a minimum such report will contain the following information:
 1. Date and time when the security incident occurred and/or was discovered
 2. Name(s) of system(s), program(s), or network(s) affected by the security incident
 3. Preliminary impact analysis
 4. Description of and scope of EPHI used, disclosed, modified, or destroyed by the security incident
 5. Description of any mitigation steps taken
 6. Company will provide the report to the CareFirst Security Official at 10455 Mill Run Circle, Owings Mills, MD 21117 and to the individual specified under the Notice Provision in the Agreement and will send such report by traceable carrier.
- C. To avoid unnecessary burden on either party, Company will report to Covered Entity any Unsuccessful Security Incident of which it becomes aware of only upon request of Covered Entity. The frequency, content and the format of the report of unsuccessful security incidents will be mutually agreed upon by the parties.

VIII. COMPANY OBLIGATION UPON BREACH

- A. At Covered Entity's direction, Company will take corrective action(s) as a result of any breach that Company discovers under Section VII, above. In the event that Covered Entity determines that a Breach of Unsecured Protected Health Information has occurred, and Covered Entity directs Company to perform the notifications, Company will provide such notification to the affected individuals without unreasonable delay but no longer than 60 calendar days after discovery of the Breach. The notification shall contain the following elements:
 - 1. Description of the incident that caused the unauthorized access, use or disclosure, including the date of the event and the date of discovery
 - 2. Description of the types of PHI that were involved in the unauthorized access, use or disclosure
 - 3. Summary of the steps to investigate and prevent further unauthorized access, use or disclosure and to mitigate harm to the affected individuals
 - 4. Contact procedures for those affected individuals wishing to ask questions or learn additional information, including a toll-free telephone number, website and/or postal address
 - 5. Steps affected individuals should take to protect themselves from the unauthorized access, use or disclosure
 - 6. If breach involves Social Security Numbers, offer and provide free credit monitoring for each affected individual for one (1) year.
- B. At Covered Entity's option, Covered Entity may choose to provide the notification directly to the affected individuals. If Covered Entity provides the notification, then Company will be responsible for the cost and expense of such notifications including the cost of free credit monitoring costs for responding to inquiries from affected individuals.
- C. Company will pay any cost or expense, claim, cause of action, liability, fine, penalty or damage (including, for example, notification expenses, attorney's fees, and court or processing costs) arising out of or resulting from any unauthorized access, use or disclosure of PHI by Company, Company's, Subcontractors. Company's liability arising out of or in connection with this Exhibit will be governed solely by the terms of this Exhibit and no provision set forth in the Agreement, including indemnification provisions hereunder or any terms that define, restrict or limit the types or amounts of damages, costs or expenses, will in any way alter, expand, restrict or limit Company's liability hereunder.

IX. BREACH OF AGREEMENT AND TERMINATION

- A. Covered Entity has the right to immediately terminate this Exhibit and any related agreements between the parties if Covered Entity determines, in its sole discretion that Company, or any of its Subcontractors, has breach any material term of this Exhibit.
- B. Either party may terminate agreement if it determines, after reasonable consultation with other party, that the other party has breached any material provision of this Exhibit ("Breaching Party") and upon written notice to Breaching Party of the breach, Breaching Party fails to cure the breach within thirty (30) days after receipt of the notice. Non-Breaching Party may exercise this right to terminate agreement by providing Non-Breaching Party written notice of termination, stating the failure to cure the breach of the Exhibit that provides the basis for the termination. Any such termination will be effective upon such reasonable date as the Parties mutually agree. If Non-Breaching Party reasonably determines that Breaching Party has breached the terms of this Exhibit and such breach has not been cured, but Non-

Breaching Party and Breaching Party mutually determine that termination of the Agreement is not feasible, Non-Breaching Party may report such breach to the DHHS.

- C. Company will automatically, at termination of the Agreement and the Exhibit, return, at its cost, all PHI and NPHI received from, or created or received by Company on behalf of Covered Entity. Prior to the return of PHI and NPHI to Covered Entity, Company may submit to Covered Entity a written request for permission to destroy the PHI and/or NPHI. Company will not retain any copies of PHI and NPHI unless expressly permitted in writing by Covered Entity. If return of destruction of the PHI and NPHI is not feasible, as determined by Covered Entity, Company will extend the protections of this Exhibit for as long as necessary to protect the PHI and NPHI and to limit any further use or disclosure. Company will certify in writing to Covered Entity that it will only use or disclose such PHI for those purposes that make return or destruction feasible. The Parties agree that it would not be feasible for Company to return or destroy the PHI reasonably needed to be retained by Company for its own legal and risk management purposes, including copies of PHI that may be included in information retained for archival purposes.
- D. In the event of a breach of any material term of this Exhibit, Covered Entity has a right to seek injunctive relief to prevent future disclosure of PHI and/or NPHI, and Company will not oppose such relief if sought by Covered Entity.

X. MISCELLANEOUS

- A. The applicable duties and responsibilities of the parties as set forth herein will inure to and will be enforceable by and against the CareFirst-related companies as defined herein.
- B. Except as provided in this paragraph below, no supplement, modification or amendment of any term, provision or condition of this Exhibit will be binding or enforceable unless executed in writing by the parties. Notwithstanding the preceding sentence, upon the compliance date of any final regulation or amendment to final regulations of the HIPAA Rules, the HITECH Act and GLB Regulation, the final Rules and this Exhibit will automatically amend such that the obligations they impose on Company remain in compliance with these regulations.
- C. No third parties are intended to benefit from this Exhibit and no third-party beneficiary rights will be implied from anything contained in the Exhibit.
- D. The terms and conditions of this Exhibit will override and control any conflicting term or condition of any other agreements that may be in place between the parties. All non-conflicting terms and conditions of the Exhibit and any other agreement between the parties remain in full force and effect.
- E. Any ambiguity in this Exhibit will be resolved in favor of a meaning that protects PHI and NPHI and allows Company and Covered Entity to comply with the HIPAA Rules and GLB Regulations.
- F. Company will provide, at Covered Entity's request, reasonable access to any policies and procedures developed by or utilized by Company for the protection of PHI and NPHI.
- G. Company will make its internal practices, books and records relating to the use and disclosure of PHI and NPHI to Covered Entity and DHHS to determine compliance with HIPAA Rules and the HITECH Act.
- H. Company will provide notice to Covered Entity of any subpoena or other legal process seeking PHI and/or NPHI received from or created on behalf of Covered Entity, or otherwise relating to Company's services under the Agreement. Such notice will be provided within forty-eight (48) hours of receipt of a subpoena or other legal process.
- I. All notices required to be given to Covered Entity under this Exhibit will be in writing and sent by traceable carrier to the address indicated below, or such other address as Covered Entity

may indicate by at least ten (10) days prior written notice to Company. Notices will be effective upon receipt.

CareFirst BlueCross BlueShield
 Attention: Privacy Office
 10455 Mill Run Circle
 Mail Stop CANTN-10152
 Owings Mills, MD 21117-5559

- J. This Exhibit will continue in full force and effect for the entire period(s) of time that there is one or more Agreement(s) in effect between the parties. If there is an interim period of time during which there are no Agreement(s) in effect between the parties, the duties and responsibilities of the parties will be suspended for the duration of such period, subject to the requirements of paragraph K of this Section X. However, if the parties thereafter enter into a subsequent Agreement, this Exhibit will be incorporated into such Agreement and the duties and responsibilities of the parties under this Exhibit shall be fully and completely restored as of the effective date of such Agreement.
- K. The respective rights and obligations of Company under Section III, VI, VII and VIII, of this Exhibit will survive the termination of this Exhibit or any suspension of the duties and responsibilities of the parties as provided in paragraph J of this Section X.

GLOSSARY OF HIPAA TERMS

The definitions for the following HIPAA terms can be found in the regulations listed below:

TERM	CITE
Administrative Safeguards	45 C.F.R. §164.304
Availability	45 C.F.R. §164.304
Breach	45 C.F.R. §164.402
Code Set	45 C.F.R. §162.103
Confidentiality	45 C.F.R. §164.304
Electronic Protected Health Information (EPHI)	45 C.F.R. §160.103
Information Systems	45 C.F.R. §164.304
Integrity	45 C.F.R. §164.304
Limited Data Set	45 C.F.R. 164.514(e)(2)
Physical Safeguards	45 C.F.R. §164.304
Protected Health Information (PHI)	45 C.F.R. §160.103
Required by Law	45 C.F.R. §164.103
Security Incident	45 C.F.R. §164.304
Standard	45 C.F.R. §160.103
Subcontractor	45 C.F.R. §160.103
Technical Safeguards	45 C.F.R. §164.304
Transaction	45 C.F.R. §160.103
Unsecured Protected Health Information	45 C.F.R. §164.502