



SALES AGREEMENT (AGENCY)

THIS SALES AGREEMENT (the “Agreement”) is between Group Benefit Services, Inc., a Maryland domiciled corporation (“GBS”), and _____ a _____ domiciled limited liability company, (“Agency”), collectively referred to as “Parties.”

Whereas Agency wants to market and sell employee benefit programs developed by GBS and GBS wants Agency to market and sell its programs, the Parties have agreed to enter into this Sales Agreement effective _____, 201____.

1. Nature of the Sales Agreement

- a. Agency agrees to market and sell GBS’s HealthyAdvantage Product (“Programs”) as described in Exhibit A and its Attachments (“Exhibit A”) directly or through producers under contract with Agency (“Producers”), subject to the terms of this Sales Agreement and its Exhibits (“Agreement”). Agency agrees to provide appropriate training, supervision, and support to enable Producers to market GBS’s Programs in a knowledgeable, professional manner.
- b. GBS agrees to provide Agency with a non-exclusive right to market these Programs in the geographical territories and to the market segments identified in Exhibit A. GBS acknowledges that this agreement is also non-exclusive with respect to Agency’s right to market similar programs.
- c. GBS will pay Producer Fees to Agency as set forth in Exhibit A.

2. Adherence to Rules, Regulations and Laws

- a. Agency and GBS shall comply with all applicable state and federal licensing requirements, regulations and statutes that apply to the Programs. Agency and GBS shall also comply with all applicable rules, policies and procedures for each Program sold and marketed by Agency. Agency acknowledges its responsibility for ensuring compliance by Producers with these licensing requirements, regulations and statutes.
- b. Agency agrees to communicate accurately what each Program offers and promise not to communicate to the public, Producers, its staff or others any changes to a Program—including, but not limited to, changes related to a Program’s eligibility, coverage, or pricing—without prior approval by GBS.
- c. Agency acknowledges that Agency and its Producers may be required to execute contracts or agreements with parties other than GBS, such as Program Administrators and Program Insurers, in order to sell, market and receive compensation in connection with a particular Program. Agency agrees to use its best efforts to ensure these contracts or agreements are executed.

3. Authority Concerning a Program

- a. GBS may revise the territories and market segments in which the Agency is permitted to market and sell a Program with 60-days’ written notice to Agency.
- b. Agency understands that GBS, in its sole discretion, can deny, amend, re-rate or rescind coverage under a Program so long as GBS complies with reasonable procedures and guidelines and applicable law.
- c. Agency agrees to use only marketing material approved in writing or provided by GBS.
- d. Unless authorized in writing, Agency will not deposit or accept money due to GBS in connection with a Program. Agency agrees to promptly forward all monies it may receive to GBS.
- e. Agency agrees not to directly or indirectly assume or become liable for any liability of GBS (including any underwriting risks) related to a Program and will not make representations regarding coverage prior to acceptance.

4. Agency Fee

- a. Agency will be paid compensation (“Producer Fee”) as described in Exhibit A for employer groups (“Clients”) enrolling in a Program subject to this Agreement when Agency is identified in the Client’s enrollment material for such a Program and for which premium, fees and other payments are received from Client by GBS.
- b. Producer Fees will be calculated according to the schedule in Exhibit A in-force at the time of the Client’s initial effective date in the Program subject to the provisions of the “Term and Termination” and “Impact of Legislative or Regulatory Changes” sections of this Agreement.
- c. Once Agency is associated with a Client for a particular Program, Agency will continue to receive Producer Fees associated with the Client so long as the Client remains in-force in the Program unless explicitly stated otherwise in Exhibit A in relation to a particular Program, as a result of a Broker of Record change (if permitted pursuant to Exhibit A) or as the result of Legislative or Regulatory changes as described in Section 5.
- d. If a Client’s coverage in a Program lapses for a period exceeding three months and is subsequently reinstated, Agency will no longer be associated with the Client unless Agency is listed on the lapsed Client’s new enrollment forms. The Producer Fee schedule in-force at the time a lapsed Client is reinstated will be used to calculate Agency’s compensation for this Client.
- e. Agency’s Producer Fee is based on the total of its Client payments made to GBS. If Agency is paid a Producer Fee for a Client based on a premium that is later reduced or is later refunded to the Client for any reason, Agency’s future Producer Fees may be offset by the amount of the Producer Fee received before the reduction on the Client’s payments. If GBS does not receive payment from a Client, GBS is under no obligation to pay Producer Fees. GBS shall provide weekly invoicing and commission payment to Agency.

5. Impact of Legislative or Regulatory Changes

- a. The Parties acknowledge that laws and regulation concerning the Programs subject to this Agreement are subject to change and such changes may require changes to the terms of this Agreement, including the availability or nature of a Program, licensing or qualifications to sell a Program, and Producer Fees.
- b. Any changes required by law or regulation will supersede the terms of this Agreement.
- c. GBS will provide Agency with reasonable notice before any modifications to the Agreement take effect as a result of legal or regulatory changes. Modifications will take effect no sooner than 60 days after notification of the changes unless legislation or regulation require an earlier effective date.

6. Indemnification and Insurance

- a. The Parties agree to indemnify, defend and hold harmless the other Party against any and all third party claims, damages, liabilities and expenses, including reasonable legal fees and costs assessed against or incurred by the other party, arising as a result of its gross negligence or willful misconduct. This mutual indemnification and hold harmless extends to the Parties directly and to their affiliates, principals, employees, successors and assignees.
- b. Agency and GBS agree to promptly notify each indemnified Party of a claim for which it is seeking indemnification under this Agreement. The parties understand and further agree that no settlement of an indemnified claim shall be made by an indemnified Party without the concurrence of the indemnifying Party.
- c. These indemnification and hold harmless provisions survive the termination of this Agreement.
- d. While this Agreement is in effect, the Parties shall maintain the insurance coverage identified in the program Exhibit A and its Attachments.

7. Independent Contractor

- a. Agency and GBS are independent contractors in relation to one another. Agency's Producers are independent contractors in relation to GBS. Nothing in this Agreement is intended or should be interpreted as creating an employer-employee relationship between Agency and GBS.
- b. Each Party is responsible for paying and maintaining its own taxes, insurance coverage and other expenses associated with its business activities..

8. Confidentiality and Non-Disclosure

- a. The Parties agree that any Confidential Information provided under this Agreement will be maintained in strict confidence and agree to protect the confidentiality of such information in a manner consistent with the way a reasonable person would protect similar Confidential Information. "Confidential Information" means the information and materials noted or marked by GBS or Agency as confidential and proprietary, or which should reasonably be understood as confidential and proprietary given the nature of the information or materials, including contract terms and fee schedules. "Confidential Information" does not include information that (i) is already known to the receiving party at the time it is disclosed and has not been obtained wrongfully, (ii) becomes publicly known without fault of the receiving party, (iii) is independently developed by the receiving party, (iv) is approved for release in writing by the disclosing party, (v) is disclosed without restriction by the disclosing party to a third party, or (vi) is disclosed pursuant to legal obligations beyond the control of the disclosing and receiving parties.
- b. These confidentiality and non-disclosure provisions shall survive the termination of this Agreement.

9. Arbitration

- a. Agency and GBS recognize disputes and differences under this Agreement may arise and that litigation in court can be time consuming and expensive. The Parties agree that it is in their best interests to resolve disputes related to this contract through arbitration rather than litigation. Consequently, Agency and GBS waive their rights to litigate disputes and controversies between them arising out of this Agreement and instead elect to have these disputes resolved through arbitration.
- b. Arbitration will take place in the State of Maryland unless another venue is mutually agreed by Agency and GBS, and will be conducted through the American Arbitration Association. The Parties also agree to abide by the rules of the Commercial Arbitration Rules of the American Arbitration Association.
- c. Any decision or award as a result of any such arbitration shall be issued in writing and the arbitrator shall be mutually selected pursuant to the Commercial Arbitration Rules of the American Arbitration Association.
- d. These arbitration provisions shall survive the termination of this Agreement.

10. Term and Termination

- a. **Term:** This Agreement takes effect on the Effective Date and will continue in-force until terminated by either Party.
- b. **Termination without Cause:** Either Party may terminate this Agreement for any reason upon 90-days' written notice to the other party.
 - i. **Vesting of Compensation:** If this Agreement is terminated without cause, Agency is entitled to Producer Fees related to any business written by Producer prior to termination of this Agreement for as long as that business remains in force under the Program into which the business was placed.
- b. **Termination for Cause:** Either Party may terminate this Agreement at any time by giving written notice to the other Party should the other Party be in material breach of this Agreement and fail to cure this breach within thirty (30) days of receiving written notice of the breach. Either Party may immediately terminate

this Agreement if the other party files a petition of any type as to its bankruptcy, is declared bankrupt, becomes insolvent, makes an assignment for the benefit of creditors, or goes into liquidation or receivership or otherwise loses control over all or substantially all of its business. Either Party may terminate this Agreement at any time if instructed to do so by an authorized court or regulator.

- i. Following termination of Agency for cause, Agency will no longer be entitled to received Producer fees beyond the expiration of in-force policies.

11. Notice

Communications required by this Agreement will be in writing and may be delivered personally, by mail, by email or by fax. Any notice is deemed to be received upon actual delivery. Communications are to be addressed to:

For Group Benefit Services, Inc.

Attention: David Cardwell, Sr
 Telephone: (410) 832-1300
 Email: dcardwellsr@gbsio.net
 Address: 6 North Park Drive, Suite 310
 Hunt Valley, MD 21030

For _____

Attention:
 Telephone:
 Email:
 Address:

12. HIPAA and Privacy

The Parties agree to abide by all privacy and document protection laws and regulations, including HIPAA, applicable to the Programs and to protect Clients' and their employees' Personal Health Information. Producer and GBS agree to execute any forms required by these privacy laws including a HIPAA Business Associate Agreement as appropriate or required by GBS or the Program Operators.

13. Other Matters and Considerations

- a. **Amendments:** This Agreement may be amended at any time by mutual agreement of the Parties. Any amendment must be in writing and executed by duly authorized representatives of the Parties.
- b. **Assignment and Transfer:** This Agreement may not be assigned or transferred by either Party without the prior written consent of the other Party, which consent will not be unreasonably withheld. If the assignment or transfer is agreed to, the Agreement is binding upon each Party's successors and permitted assigns.
- c. **Severability of Provisions:** If any term or provision of this Agreement is deemed to be illegal or invalid for any reason, the validity or enforceability of the remainder of the Agreement will remain in-force.
- d. **Compliance:** The Parties will comply with all applicable licensing requirements and state and federal statutes.
- e. **Force Majeure:** Neither Party will be responsible for nonperformance or defective or late performance of its obligations required of this Agreement to the extent, and for such periods of time, as such nonperformance, defective performance, or late performance is due to causes beyond its control and occurring without its fault or negligence, including without limitation, acts of God, war (including civil
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war), terrorism, act of any state or government, fire, explosions, the elements, epidemics, quarantine, restrictions, blackout, embargoes, or unusually severe weather.

- g. **Applicable Law:** This Agreement will be governed by and construed in accordance with the laws of the State of Maryland, without regard to its choice of law rules. For any and all disputes arising from or relating to this Agreement, each party submits to the exclusive jurisdiction of the state and federal courts located in Baltimore County of the State of Maryland and waive any jurisdictional, venue or inconvenient forum objections to such courts.
- h. **Entire Agreement:** This Agreement, including any Exhibits or Attachments, is the complete and sole contract between the Parties concerning GBS Programs and supersedes all prior communications, oral or written, between the Parties concerning this subject matter.

Dated: _____ **Group Benefit Services, Inc.**

Signature: _____

Name _____

Title: _____

Witness: _____

Dated: _____

Signature: _____

Name _____

Title: _____

Witness: _____



EXHIBIT A – Agency

1. **Program Name:** GBS HealthyAdvantage, a level funded self-funded medical coverage plan.
2. **Program Administrators:** Group Benefit Services, Inc.
3. **Program Excess Loss Insurer:** May vary based upon state and Client size, but all excess loss insurers will be A-rated or better by A.M. Best.
4. **Authorized Marketing Geography:** United States and territories.
5. **Market Segment:**
 - o Minimum: 5 covered employees, but varies by state or territory as defined in Program marketing and underwriting material.
 - o Maximum: Clients of 600 employees (larger Clients are permitted with pre-approval to quote).
6. **Producer Fees:**
 - o For groups with up to 175 eligible employees: 7.0% of Premium Equivalent.¹
 - o For groups with 176-or-more eligible employees: negotiable
 - o GBS may make bonuses and similar compensation (“Bonuses”) available to Agency from time to time and at its sole discretion. If a Bonus is offered it will be subject to and contingent upon the terms of that Bonus program. Bonuses are in addition to, but not a part of, Agency’s Producer Fee.
7. **Compensation Paid To You By:** Producer fees are derived from Client payments and remitted by Group Benefit Services, Inc. Bonuses will be paid according to the terms of the applicable Bonus Program, if any.
8. **Producer Appointments Required:** Program Insurers require producer appointments. Program Administrator requires completion of certain forms by Agency (including tax documents) to facilitate payments. Additional agreements may be required by providers of optional coverage or services.
9. **Producer Licenses:** A valid state insurance license is required for the state in which you are writing the group.
10. **Insurance Required:** For the duration of this Agreement, Agency agrees to maintain Errors & Omissions insurance coverage of \$1,000,000 per incident and \$1,000,000 in the aggregate. Agency agrees to provide evidence of this coverage upon request.
11. Producer Fee is paid to Agency.

Group Benefit Services, Inc.

Company:

Signature: _____

Signature: _____

Name _____

Name _____

Title: _____

Title: _____

Dated: _____

Dated: _____

¹ “Premium Equivalent” is defined as the total of all amounts paid by under this Agreement by Clients assigned to Agency.