



## INSURANCE PRODUCER AGREEMENT

This Insurance Producer Agreement (Agreement), effective January 1, 2021, is between Blue Cross and Blue Shield of Nebraska, a Nebraska company (BCBSNE), and the individual or entity listed in the signature block of this Agreement, acting as a broker, agent or agency licensed in the state of Nebraska to sell, solicit or negotiate insurance (Producer).

This Agreement replaces and supersedes any prior agreement between the parties, whether written or oral, and any compensation payable thereto.

Subject to this Agreement, BCBSNE authorizes Producer to solicit Products for BCBSNE in the state of Nebraska only. Accordingly, the parties agree as follows:

### SECTION A - DEFINITIONS

1. "Agent of Record" means an individual or entity designated by Client to serve as its insurance agent, broker or producer.
2. "Appointed Agent" means any licensed individual nominated by Producer and appointed by BCBSNE with the Nebraska Department of Insurance.
3. "Client" means any individual or entity that contracts with or proposes to contract with BCBSNE for one or more Products.
4. "Compensation" means commissions and bonuses paid to Producer by BCBSNE pursuant to one or more Schedules. "Compensation" excludes consulting fees received by Producer.
5. "Product" means any insurance or reinsurance contract, or contract to administer insurance or self-insurance services identified in one or more Schedules. "Product" excludes association business unless specifically referenced.
6. "Refund of Premium" means premium refunded, waived, returned or rebated by BCBSNE for any reason. Without limitation of the foregoing, Refund of Premium includes payments made to the client, client's employees, or to other parties on account of premium.
7. "Schedule" means any BCBSNE document intended to modify or alter the terms of this Agreement. Unless otherwise stated, Schedules are automatically incorporated into this Agreement as of their effective date and shall remain in effect until terminated by BCBSNE.
8. "Summary of Benefit and Coverage" means the written summary for the benefit package for which application is made in accordance with 45 CFR 147.

### SECTION B - TERM

This Agreement shall become effective upon the date of the last signature on the signature block and will remain in effect until terminated as provided herein.

### SECTION C – CONDITIONS

1. Producer warrants that Producer is and shall remain in compliance with all applicable federal, state and local laws, rules and regulations, and BCBSNE policies and procedures.

2. Producer warrants that Producer has not been convicted of, or plead guilty or no contest to, any criminal felony involving dishonesty or breach of trust and has not been convicted of an offense under Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Producer shall notify BCBSNE immediately in writing of any change in status of this Section C2.
3. Producer shall obtain all necessary licenses and regulatory approvals to perform the services under this Agreement, and shall provide copies of such to BCBSNE. Producer shall notify BCBSNE in writing within ten (10) business days of any changes in the status of such licenses or regulatory approvals.

## **SECTION D - PRODUCER RESPONSIBILITIES**

Producer expressly agrees to perform the following:

1. Solicit, submit and ensure the accuracy of applications (and all other documents required to be obtained from applicant) for Products.
2. Transmit quotes exactly as issued by BCBSNE.
3. Direct all applicants to pay initial premiums, collect all initial premiums, and deliver such to BCBSNE.
4. Assist in the installation of Products and provide ongoing assistance to Client.
5. Provide timely reports to BCBSNE as required by BCBSNE.
6. Pay all necessary expenses incurred by Producer, including taxes based on compensation paid to Producer, and hold BCBSNE harmless from any claims arising from payment of such expenses.
7. Pay fees charged by BCBSNE for the submission of paper applications.
  - a. Individual Product applications submitted via paper will incur a \$25 fee payable by the Producer to BCBSNE. This application fee shall not be charged to the Client by the Producer. The application fee will be charged against owed commissions. The application fee is charged at the point of submission, regardless of whether the application is issued, declined or withdrawn.
  - b. The paper application fee is subject to change by BCBSNE upon thirty (30) days written notice to Producer.
8. Promptly notify BCBSNE of any material complaint from Client.
9. Grant access to its books, contracts, computers, or other electronic systems (including medical records and documentation), relating to Producer's compliance with applicable provisions under 45 C.F.R. Parts 155 and 156 in connection with the duties and obligations set forth in this Agreement, to the U.S. Department of Health and Human Services ("HHS") and its Office of Inspector General (or their designees), and/or to BCBSNE for any other Producer responsibilities under this Agreement for the duration of the period in which this Agreement is effective, and for a minimum of ten (10) years from the date this Agreement terminates.
10. Utilize only sales materials previously approved by BCBSNE.
11. Producer must successfully complete all training required by BCBSNE within six (6) months of receiving notification of such training. BCBSNE shall furnish Producer with all necessary training materials.

12. Producer shall obtain and maintain Errors and Omissions coverage during the term of this Agreement in an amount sufficient to BCBSNE. The Errors and Omissions policy shall provide coverage for the duties and responsibilities set forth in this Agreement. A Certificate of Insurance shall be furnished to BCBSNE at any time upon request. The Certificate of Insurance shall include a provision whereby thirty (30) days notice must be received by BCBSNE prior to coverage cancellation by either Producer or its insurance carrier.
13. Participate in initial and ongoing BCBSNE Product-specific training, America's Health Insurance Plans (AHIP) training and appropriate sales technique training, including, but not limited to, suitability of the Product for the Client, underwriting guidelines, and new sales and renewal procedures as directed by BCBSNE.
14. To the extent Producer sells these Products, Producer agrees to abide by BCBSNE Medicare Advantage and Medicare Part D requirements found in Exhibit A.
15. At Application for individual and/or small group Products, Producer will supply to the Client the Summary of Benefit and Coverage and/or a document provided by BCBSNE to Producer containing the information regarding where the Client can obtain the Summary of Benefit and Coverage. Producer agrees to provide to BCBSNE, upon written request by BCBSNE, documentation of compliance with this obligation.
16. At Producer's option, market and sell to Clients BCBSNE Ancillary Products made available to Producer by BCBSNE through third party insurers ("Ancillary Products"). Producer shall follow any requirements that said third party insurers may have regarding the sale and marketing of such Ancillary Products. Unless otherwise agreed to by the parties hereto, commissions payable for Ancillary Products may be made by the third party insurers directly to Producer.
17. Permit BCBSNE and its designees the right to audit the Producer's books and records concerning this Agreement and BCBSNE business. If BCBSNE conducts any such audit, BCBSNE shall pay all expenses and costs related to or incurred by BCBSNE employees or third party auditors retained by BCBSNE to conduct the audit, and Producer shall pay for all expenses and costs related to or incurred by Producer's employees with respect to cooperating with and facilitating the audit. For the purpose of conducting any such audit, Producer agrees:
  - a) to furnish BCBSNE with copies of relevant books and records that may be reasonably requested by BCBSNE and
  - b) to permit BCBSNE to enter the premises of Producer during reasonable business hours.

Producer agrees that it will cooperate with BCBSNE and comply with BCBSNE's request for information in connection with any investigation, adjudication of claims, or other inquiry involving BCBSNE business. The obligations of Producer under this Section D(17) shall survive termination of this Agreement.

## **SECTION E - PRODUCER LIMITATIONS**

Producer expressly agrees not to perform any of the following:

1. Adjust or settle claims.
2. Make any promise or agreement on behalf of BCBSNE.
3. Misrepresent BCBSNE or its Products.

4. Incur any debt or liability on behalf of BCBSNE.
5. Enter into, alter, reinstate or cancel contracts.
6. Cash or deposit any checks or drafts payable to BCBSNE.
7. Withhold money or property from BCBSNE.
8. Extend the time for payment of premiums or waive payment thereof.
9. Jointly employ an individual who is employed by BCBSNE.
10. Alter any advertising material bearing BCBSNE's logos, trademarks, or service marks without prior written approval from BCBSNE.
11. Disclose BCBSNE proprietary information to any third party except as necessary to perform its responsibilities under this Agreement.
12. Enter into any legal, administrative or regulatory proceeding on behalf of BCBSNE.

#### **SECTION F - APPOINTED AGENTS AND AGENT OF RECORD**

1. Producer's nomination of Appointed Agents must be made to BCBSNE in writing and is subject to BCBSNE's consent. BCBSNE may approve, deny or revoke its consent at any time in its sole discretion. BCBSNE's approval of consent shall be communicated to the Nebraska Department of Insurance in a timely manner. BCBSNE shall pay all fees associated with the appointment of agents.
2. All obligations imposed by this Agreement on Producer shall bind Producer's Appointed Agents. Producer shall be responsible for the supervision and direction of Appointed Agents in accordance with this Agreement. Producer shall not nominate an agent without ensuring the agent is lawfully licensed to transact the type of insurance for which he or she is appointed. Producer is fully and solely responsible for the acts and omissions of its Appointed Agents and for ensuring Appointed Agents comply with the terms and conditions of this Agreement. It is Producer's sole responsibility to notify BCBSNE of any change in status of its Appointed Agents, including but not limited to, notification that Appointed Agent no longer represents Producer.
3. BCBSNE may honor Client's request to change its Agent of Record, provided the request is submitted by Client in writing to BCBSNE. If BCBSNE agrees to change Client's Agent of Record, BCBSNE shall determine the effective date of the change in its sole discretion. Upon the effective date of the change, Producer shall no longer receive compensation related to Client in accordance with Section G3 below.

#### **SECTION G - COMPENSATION**

1. Unless otherwise agreed to in writing by BCBSNE, compensation to Producer for services performed under this Agreement is paid pursuant to one or more Schedules. BCBSNE may change the terms of compensation at any time upon thirty (30) days written notice, regardless of the effective date of coverage. Compensation rates represent payment-in-full to Producer for services rendered pursuant to this Agreement.

2. No compensation shall be payable until the Product on which the compensation is claimed is actually issued, all delivery requirements are fulfilled and the premium paid. Compensation shall be paid by BCBSNE directly to Producer. BCBSNE shall have no responsibility to allocate compensation amongst Producer's Appointed Agents.
3. Unless this Agreement is terminated pursuant to Section H3 and assuming compensation has not been forfeited pursuant to this Section G, compensation will continue to be paid with respect to Products so long as:
  - a) Producer is continuously and actively engaged as a licensed broker, agent or agency;
  - b) Client continues to be enrolled in a BCBSNE benefit plan (e.g. individual) or continues to have participants enrolled in benefit plans funded or administered by BCBSNE (e.g. group); and
  - c) Producer or its Appointed Agent continues to represent Client as its Agent of Record.
4. Commissions will not be payable to Producer, and if previously paid will be returned by Producer in the event of a Refund of Premiums, and shall constitute a debt of Producer to BCBSNE until they are returned. If BCBSNE makes a Refund of Premium, Producer shall pay BCBSNE the amount of commissions previously paid or credited to Producer's account for such premium, regardless of the period of time when the premium was collected or the commission was paid to the Producer. BCBSNE may offset the amount due from the Producer against other amounts due from BCBSNE.
5. Determination of bonus eligibility and payment amount (if any) will be made in BCBSNE's sole discretion. All determinations made by BCBSNE will be final. Accounts written on a consultant fee basis will not be eligible for bonuses.
6. Producer will immediately notify BCBSNE upon discovery of an overpayment. Producer agrees to remit to BCBSNE any overpayments made under this Agreement. Alternatively, BCBSNE, in its sole discretion, may offset such overpayment against other compensation due and payable to Producer. Producer shall reimburse BCBSNE for all expenses incurred by BCBSNE to recover overpayment from Producer.
7. In its sole discretion, BCBSNE may suspend compensation payable to Producer if, based on the information in BCBSNE's files; Producer or its Appointed Agent(s) are non-compliant with any term or condition of this Agreement. Producer automatically forfeits all suspended compensation if the cause of such suspension is not resolved within ninety (90) days of Producer being notified of the suspension.
8. No claim of incorrect payment shall be valid unless asserted within two (2) years from the date of the alleged incorrect payment.
9. Producer agrees that it will not arrange assignments, create partnerships or use other means for the purpose of maximizing compensation paid by BCBSNE, including bonus payments.
10. Producer shall forfeit any and all compensation that Producer might otherwise have acquired or earned under this Agreement if Producer does any of the following:
  - a) Commits a fraudulent act or malfeasance in performance of any of the obligations under this Agreement;
  - b) Violates Section C of this Agreement;

- c) Wrongfully withholds or misappropriates any payments or commissions relating to the Products; or
- d) Violates laws, rules or regulations that materially or adversely affect the ability to sell the Products.

11. Producer acknowledges compensation received under this Agreement may be subject to disclosure and reporting requirements. Accordingly, Producer shall make all disclosures required by law regarding compensation. In addition, BCBSNE may make disclosures to Client and/or regulatory or legal authorities regarding compensation.

## **SECTION H - TERMINATION**

This Agreement may be terminated:

1. By either party without cause by delivering written notice to the other party sixty (60) calendar days prior to the effective date of such termination.
2. Automatically upon any of the following:
  - a) Producer's death; or
  - b) Producer's dissolution, receivership, insolvency or bankruptcy.
3. Immediately, and without right to further compensation, by BCBSNE if Producer does any of the following:
  - a) Commits a fraudulent act or malfeasance in performance of any of the obligations under this Agreement;
  - b) Violates Section C of this Agreement;
  - c) Withholds or misappropriates any payments or commissions relating to the Products; or
  - d) Violates laws, rules or regulations that materially or adversely affect the ability to sell the Products.

## **SECTION I – PROTECTED HEALTH INFORMATION**

Under this Agreement, Producer may receive information from BCBSNE that is protected by the Health Insurance Portability and Accountability Act of 1996.

If and only to the extent Producer is considered a Business Associate of BCBSNE under the HIPAA Privacy and Security Rules (45 CFR Parts 160 and 164), Producer and BCBSNE agree to the terms below:

1. Producer agrees to not use or disclose Protected Health Information (PHI) other than as permitted or required by this Agreement or as Required by Law.
2. Producer agrees to use appropriate safeguards to prevent use or disclosure of the PHI other than as provided for by this Agreement. Producer will implement administrative, physical and technical safeguards (including written policies and procedures) that reasonably and appropriately protect the confidentiality, integrity and availability of electronic PHI that it creates, receives, maintains, or transmits on behalf of BCBSNE as required by the Security Rule.

3. Producer agrees to mitigate, to the extent practicable, any harmful effect that is known to Producer from a use or disclosure of PHI by Producer in violation of the requirements of this Agreement.
4. Producer agrees to report to BCBSNE within 72 hours of discovery any use or disclosure of the PHI not provided for by this Agreement, and any Security Incident of which it becomes aware.
5. If Producer conducts any Electronic Transactions for or on behalf of BCBSNE for which the Department of Health and Human Services has established standards, Producer will comply, and will require any subcontractor or agent involved with the conduct of such Transactions to comply, with each applicable requirement of 45 CFR Part 162. Producer will not enter into, or permit its subcontractors or agents to enter into, any agreement in connection with the conduct of Electronic Transactions for or on behalf of Company that do not comply with the requirements of 45 CFR Part 162.
6. Producer agrees to ensure that any agent, including a subcontractor, to whom it provides PHI, agrees to the same restrictions and conditions that apply through this Agreement to Producer with respect to such information. Moreover, Producer shall ensure that any such agent or subcontractor agrees to implement reasonable and appropriate safeguards to protect BCBSNE's PHI.
7. If Producer maintains any PHI in a designated record set for BCBSNE, Producer agrees:
  - a) to provide access, at the request of BCBSNE, and in the time and manner designated by BCBSNE, to PHI in a Designated Record Set, to BCBSNE or, as directed by BCBSNE, to an Individual in order to meet the requirements under 45 CFR 164.524, and
  - b) make any amendment(s) to PHI in a Designated Record Set that BCBSNE directs or agrees to pursuant to 45 CFR 164.526 at the request of BCBSNE or an Individual, and in the time and manner designated by BCBSNE.
8. Producer agrees to make internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI received from, or created or received by Producer on behalf of BCBSNE, available to BCBSNE or to the Secretary for purposes of the Secretary determining BCBSNE's compliance with the Privacy Rule.
9. Producer agrees to document such disclosures of PHI and information related to such disclosures as would be required for BCBSNE to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Producer agrees to provide BCBSNE with such documentation within 15 days of any such disclosure without request by BCBSNE. Such documentation shall be sufficient to allow BCBSNE to respond to an individual request for accounting of disclosures of PHI under 45 CFR 164.528. Producer further agrees to maintain this documentation and respond to requests for accounting of disclosures made by individuals to Producer.
10. Except as otherwise limited in this Agreement, Producer may use or disclose PHI to perform functions, activities, or services for or on behalf of BCBSNE for the purposes stated in the separate agreement or agreements defining the Business relationship and obligations of the parties, provided that such use or disclosure would not violate the Privacy Rule if done by BCBSNE.
11. Except as otherwise limited in this Agreement, Producer may use PHI for the proper management and administration of Producer or to carry out the legal responsibilities of Producer.

12. Except as otherwise limited in this Agreement, Producer may disclose PHI for the proper management and administration of Producer, provided that disclosures are Required by Law, or Producer obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person notifies Producer of any instances of which it is aware in which the confidentiality of the information has been breached.
13. Except as otherwise limited in this Agreement, Producer may use PHI to provide Data Aggregation services to BCBSNE as permitted by 45 CFR 164.504(e)(2)(i)(B).
14. Producer may use PHI to report violations of law to appropriate Federal and State authorities, consistent with 45 CFR 164.502(j)(1).
15. Return of Information:
  - a) Upon termination of this Agreement, for any reason, Producer shall return or destroy all PHI received from BCBSNE or created or received by Producer on behalf of BCBSNE. This provision shall apply to PHI that is in the possession of subcontractors or agents of Producer. Producer shall retain no copies of the PHI.
  - b) In the event that Producer determines that returning or destroying the PHI is infeasible, Producer shall provide to BCBSNE notification of the conditions that make return or destruction infeasible. In that event, Producer shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Producer maintains such PHI.
  - c) The respective rights and obligations of Producer under this subsection shall survive the termination of this Agreement.
16. A reference in this Agreement to a section in the Privacy Rule or Security Rule means the section as in effect or as amended. Capitalized terms set forth in this Section shall have that meaning set forth in HIPAA and the Privacy and Security Rules.
17. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for BCBSNE to comply with the requirements of the HIPAA Privacy and Security Rules.
18. Any ambiguity in this Agreement shall be resolved to permit BCBSNE to comply with the Security and the Privacy Rule.
19. This Section I survives termination of this Agreement.

## **SECTION J – CONFIDENTIAL INFORMATION**

1. DEFINITION: While performing the Services, the parties have or may be given access to proprietary and confidential information of the other (Disclosing Party), its affiliates and/or Clients (collectively, Confidential Information) which includes without limitation:
  - a. Any data or information that is competitively sensitive material, and not generally known to the public, including information relating to product plans, business plans, and internal performance results;

- b. Any actuarial analysis, provider reimbursement rates, pharmacy network discounts and pharmacy rebates, or any other pricing information related to the purchase or sale of pharmaceuticals.
  - c. All confidential or proprietary concepts, documentation, reports, data, specifications, computer software, source code, object code, flow charts, data, databases, inventions, know-how, show-how and trade secrets, whether or not patentable, or copyrightable; and
  - d. Protected Health Information.
2. INFORMATION NOT CONSIDERED CONFIDENTIAL: Notwithstanding the foregoing, a party's Confidential information shall not include information that:
- a. Is or becomes a part of the public domain through no act or omission of the other party;
  - b. Is lawfully disclosed to Receiving Party by a third party without a known obligation of nondisclosure to the disclosing party;
  - c. Is independently developed by the other party without reference to the Confidential Information; or
  - d. Is obligated to be disclosed by court order or government requirement, provided that the Disclosing Party is given prompt written notice of such court order or government requirement, and an opportunity to obtain a protective order to prohibit or restrict such disclosure.
3. OBLIGATIONS WITH RESPECT TO CONFIDENTIAL INFORMATION: During the term of this Agreement, both parties agree to comply with privacy and security laws and regulations directly applicable to their respective businesses. To the extent required by law, Producer shall implement appropriate privacy and security measures, policies and procedures that are designed to meet the objectives of this Agreement. The Receiving Party agrees that the Receiving Party and the Receiving Party's employees, subcontractors, agents and affiliates (Receiving Party Personnel), whether the Confidential Information is marked as such or where a reasonable person would understand the information to garner such treatment, will: (i) hold the Confidential Information in strict confidence; (ii) not give, sell or disclose Confidential Information to its personnel or any other third party who does not have a "need to know" such Confidential Information in order to perform the Services or otherwise give effect to its rights and obligations under the terms and conditions of this Agreement; (iii) take commercially reasonable steps to require persons given access to such Confidential Information to comply with the obligations set forth in this Section. Upon the Disclosing Party's request, but in any event upon termination of this Agreement, except as otherwise provided in this Agreement, the Receiving Party shall surrender to the Disclosing Party all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials (and all copies of them) relating to or containing Confidential Information of the Disclosing Party, except as otherwise provided herein with respect to termination and transition procedures, and except that either party may retain on a confidential basis back-ups for non-productive archive purposes.

## **SECTION K - MISCELLANEOUS**

1. This Agreement, including any Schedules incorporated from time to time, constitutes the entire agreement between the parties.

2. Producer is an independent contractor and nothing contained in this agreement shall create an employer/employee relationship between BCBSNE and Producer.
3. BCBSNE retains the right to contact the Client directly for any purpose.
4. BCBSNE retains sole authority to determine the effective date of coverage, accept or reject applications, and to return any payment made in connection with an application that is rejected.
5. Producer shall not disclose this Agreement, or its terms and conditions, to any third-party without BCBSNE's express written consent. However, Producer may make necessary disclosures to comply with Section G8 of this Agreement.
6. This Agreement shall be construed in accordance with the laws of the state of Nebraska.
7. Producer understands that BCBSNE will not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, sexual orientation, or health status in the administration of the plan, including enrollment and benefit determinations.
8. Producer agrees to indemnify and save harmless BCBSNE from and against any claims, loss, damage, injury, expense and liability arising out of or resulting from, any action or lack of action by Producer or its Appointed Agents. Producer agrees to defend and hold harmless BCBSNE if an agent, broker or agency (other than Producer) makes a claim for compensation against BCBSNE which is paid or payable to Producer.
9. Assuming assignment is permitted by law, this Agreement is not assignable by either party without the prior written consent of the other party.
10. The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
11. This Agreement may be amended unilaterally by BCBSNE upon thirty (30) days written notice to Producer. Failure to object in writing within said thirty (30) day period by Producer will result in the amendment being given full effect. Modification by Producer requires written acceptance by BCBSNE.
12. Any notice required or permitted under this Agreement shall be delivered to BCBSNE personally or sent by Certified Mail with all postage prepaid or by express mail:

**To BCBSNE:**

Blue Cross Blue Shield of Nebraska  
 ATTN: General Counsel  
 1919 Aksarben Drive  
 Omaha, NE 68180-0001

**To Producer:**

At the address listed in the  
 signature block.

13. Regulatory Compliance - In accordance with 45 C.F.R. § 156.340, Producer and BCBSNE hereby agree as follows:
  - a. In the course of performing the duties and obligations set forth in this Agreement, Producer may constitute a "delegated entity," and may contract with other vendors who constitute "downstream entities," as such terms are defined in 45 C.F.R. § 156.20, to assist in performing such duties and obligations.
  - b. Producer shall comply with all applicable laws and regulations, including but not limited to the provisions of 45 C.F.R. Parts 155 and 156, to the extent relevant, in performing its duties and obligations set forth in this Agreement.

- c. Producer shall include in its contract with any downstream entities, and require such downstream entities to include in their contracts with other downstream entities, language that is the same or substantially similar to that contained in this Section, and which expressly requires each downstream entity to:
  - i. Comply with all applicable laws and regulations, including but not limited to the provisions of 45 C.F.R. Parts 155 and 156, to the extent relevant, in performing or assisting in the performance of the duties and obligations set forth in this Agreement, and
  - ii. Grant access to its books, contracts, computers, or other electronic systems (including medical records and documentation), relating to such downstream entity's compliance with applicable provisions under 45 C.F.R. Parts 155 and 156 in connection with the duties and obligations set forth in this Agreement, to HHS and its Office of Inspector General (or their designees), for the duration of the period in which this Agreement is effective, and for a minimum of ten (10) years from the date this Agreement terminates.
- d. In the event that BCBSNE or HHS determines that Producer, or any downstream entity with whom Producer contracts as described in subsection (a), has not performed satisfactorily the duties and obligations set forth herein, BCBSNE shall have the right to revoke such duties and obligations and terminate this Agreement upon providing thirty (30) days advance notice and an opportunity to cure (to the extent that BCBSNE determines, in its sole discretion, that such advance notice and opportunity to cure are feasible and proper under the circumstances.
- e. The provisions of this Section shall in no way be interpreted as an assumption by BCBSNE of legal liability for the actions of Producer or any downstream entities.

**IN WITNESS WHEREOF**, the parties have executed this Agreement as set forth below.

**BLUE CROSS AND BLUE SHIELD OF NEBRASKA**

Signature: Michael A. Nelson

Date: January 1, 2021

Printed Name: Michael A. Nelson

Title: EVP Sales and Account Management

**PRODUCER:** \_\_\_\_\_  
Individual or Entity Name

Signature: \_\_\_\_\_

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

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

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

SSN/TIN: \_\_\_\_\_

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

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

## **EXHIBIT A:**

### **MEDICARE ADVANTAGE AND MEDICARE PART D PRODUCTS**

1. Producer will not sell Medicare Advantage or Medicare Part D Products (each, a “Medicare Product” and collectively, “Medicare Products”) unless Producer has successfully completed the training and certification protocol provided by BCBSNE. This includes training certification provided by both BCBSNE and AHIP. Each Producer will re-certify as often as required by BCBSNE. BCBSNE will notify Producer of the schedule and availability of such training. Servicing Medicare Products prior to certification or after certification lapses may result in adverse consequences, including the nonpayment of compensation. Producer certification will immediately cease upon a Producer’s being placed on the U.S. Government’s Restricted Persons listings including a) OFAC’s Specialty Designated and Nationals Blocked Persons List, b) HHS Office of Inspector General, and c) GSA/EPLS – Excluded Parties List System.
2. BCBSNE is responsible to ensure that any servicing by Producer is done in accordance with all applicable CMS marketing guidelines and all applicable Federal and State laws (including applicable health care civil monetary penalty laws), regulations and CMS guidance, instructions, and requirements. Producer will use only BCBSNE-approved materials to service Medicare Products. These materials will contain CMS-required disclosures. Any use by Producer of materials not approved by BCBSNE that results in sanctions from CMS being applied to BCBSNE may result in adverse consequences, including nonpayment of compensation or termination of the Agreement.
3. Producer will become certified to service Medicare Products, maintain such certification, provide potential enrollees with complete and accurate information regarding plan options, assist applicants with completing their applications on forms provided by BCBSNE, and maintain records of all transactions with Medicare Applicants and enrollees.
4. Producer will abide by all applicable Federal and State laws and regulations, including but not limited to all applicable Federal and State privacy and security laws, and CMS guidance, instructions, and requirements.
5. By way of example, Producer shall not engage in any misleading activities such as implying that the Product is part of a government agency or program; shall not offer gifts of other than nominal market value as defined in Medicare guidance; shall not engage in telemarketing activities other than responding to potential enrollees who have contacted Producer requesting application information, door-to-door sales, or other similar practices.
6. Producer will make books and records available in accordance with 42 C.F.R. §§ 422.504(i)(2) and 423.505(i)(2), which give the U.S. Department of Health and Human Services and the Comptroller General, or their designees, the right to inspect, evaluate, and audit Producer’s books and other records. These rights continue for a period of ten years following the termination or expiration of the Agreement or the date of audit completion, whichever is later.
7. Producer will not hold Medicare enrollees liable for fees that are the responsibility of BCBSNE.
8. Producer shall provide complete and accurate information to all potential enrollees regarding premium amounts and how premium payments must be made. Producer shall promptly remit any premium it receives to BCBSNE.
9. Producer shall promptly notify BCBSNE of any complaint or inquiry which Producer receives relating to activities covered by this Agreement.