

# Kaiser Foundation Health Plan of Georgia, Inc. Producer Services and Commission Agreement

THIS AGREEMENT for the provision of Producer Services is effective \_\_\_\_\_, between Kaiser Foundation Health Plan of Georgia, Inc. ("KFHP-GA"), a Georgia non profit corporation, and \_\_\_\_\_ ("Producer").

Producer Type (check all that apply):

- ☐ Agent – Duly licensed individual, appointed, or employed by, an insurer, who sells, solicits, or negotiates insurance. Agent also means an individual insurance producer.
- ☐ Agency – Duly registered business entity which represents one or more insurers and is engaged in the business of selling, soliciting, or negotiating insurance. Agency also means a business entity insurance producer. An agency relationship is one between two or more persons in which one represents the other. The representative is the agent, and the person represented is the principal.

Hereafter each producer type will be referenced as "Producer".

## RECITALS

**WHEREAS**, Kaiser Foundation Health Plan of Georgia, Inc., hereafter KFHP-GA, is a health maintenance organization which offers health benefit plans in its designated service area,

**WHEREAS**, Producer is duly licensed and in good standing under the laws of the State of Georgia to perform the services described in this Agreement including, but not limited to, soliciting enrollment of employer Groups and individuals in health benefit plans offered by KFHP-GA,

**WHEREAS**, KFHP-GA desires to engage Producer to solicit applications from eligible employer Groups and/or individuals to contract for health benefit plans offered by KFHP-GA ("Contract(s)") and Producer desires and agrees to provide these services to KFHP-GA,

**NOW, THEREFORE**, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

### 1. Duties and Responsibilities.

**a. Scope of Authority.** Producer is authorized by KFHP-GA to solicit applications to contract from eligible employer Groups and/or individuals meeting eligibility requirements established by KFHP-GA for forms of health benefit plans actively offered by KFHP-GA and

identified in *Exhibit A* and incorporated herein by reference. Producer agrees to solicit offers to contract only from such eligible employer Groups and to offer enrollment applications only to such eligible employees and their dependents or other eligible individuals for the health benefit plans listed in *Exhibit A* and in the designated territory listed in *Exhibit B*. Producer acknowledges and agrees that, consistent with Subsection 5(d), KFHP-GA may change the designated territories listed in *Exhibit B* and/or health benefit plans listed in *Exhibit A* on thirty (30) days prior written notice to Producer at any time without obtaining the consent of Producer. Producer's authority to solicit, sell or negotiate business for KFHP-GA is contingent upon Producer maintaining an active state license and an active appointment with KFHP-GA. KFHP-GA will maintain management oversight to ensure that Producers work within the scope of authority specified herein, including actions that will result in license suspension, revocation and/or civil penalty.

**b. Limitation of Authority.** Producer may not alter, amend, delete, vary or waive the terms or rates of any Contract or any application for enrollment or make any promise, statement, warranty, or representation, regarding contract terms including, but not limited to, eligibility criteria, benefits, or premium amounts, unless contained in such Contract or application. Producer may not submit any business to KFHP-GA that was fraudulently or illegally obtained. KFHP-GA will collect all premiums on any Contracts solicited by Producer. Producer agrees not to collect any such premium payments unless authorized and requested by KFHP-GA; provided, however, that any amounts authorized by KFHP-GA to be collected by Producer shall be payable by check to "Kaiser Foundation Health Plan of Georgia, Inc." and remitted to KFHP-GA immediately without a written request.

**c. Application for Enrollment.** Producer will assist eligible employer Groups and their eligible employees and/or individuals in completing and submitting applications for enrollment in accordance with KFHP-GA policies and procedures. Producer acknowledges that he/she has received and reviewed all of KFHP-GA policies and procedures regarding enrollment in KFHP-GA health benefit plans and understands such policies and procedures. Producer will obtain, in writing acceptable to KFHP-GA, evidence from each prospective employer Group naming Producer as its agent of record before submitting an application to contract with KFHP-GA and shall submit a copy of such written appointment to KFHP-GA immediately upon receipt.

**d. Acceptance for Enrollment.** KFHP-GA may accept or reject any prospective employer Group and/or individual application to contract for health plan benefits submitted by Producer based on underwriting and enrollment policies of KFHP-GA including, but not limited to, location and size of the employer Group. No offer to contract made or received by Producer is binding until it is accepted by KFHP-GA in the exercise of KFHP-GA's sole discretion. In no event shall any prospective employer Group and/or individual be eligible to receive health benefits unless and until the offer to contract or application, as applicable, is accepted by KFHP-GA with such effective date as determined by KFHP-GA. Producer shall inform all Groups and individuals submitting applications to contract for health benefit plans that all applications are conditional and subject to acceptance and approval in writing by KFHP-GA.

**e. Servicing of Enrollees.** Producer will perform all reasonable duties and services required by KFHP-GA to service employer Groups and their eligible employees and their dependents as well as other individuals solicited by Producer and enrolled by KFHP-GA. If requested by KFHP-GA, such duties and services may include, but are not limited to:

- i. Delivering and explaining initial administrative forms and subsequent renewal forms;
- ii. Disseminating and distributing information and materials relating to KFHP-GA and/or KFHP-GA health benefit plans including, but not limited to, brochures and other promotional materials; applications, employer forms, and enrollment materials; administration booklets and materials; claim forms and other claims-related materials; informational materials, including notices; Internet materials; and any other such similar products and materials ("Advertising Materials");
- iii. Reviewing all individual, employer and employee applications and enrollment documents to ensure that they are fully completed and that all forms and documents requested by KFHP-GA are included; and
- iv. Maintaining a suitable business office, which shall have Internet access and E-mail capabilities.

**f. Use of Name and Advertising Materials.** Without the prior written consent of KFHP-GA, Producer shall not in any Advertising Material, or any other communication or materials distributed to third parties (i) use the name(s), service mark(s) or trademark(s) of KFHP-GA, presently existing or hereafter established, or (ii) refer to the existence of KFHP-GA and/or Producer's arrangement with KFHP-GA as described in this Agreement. For purposes of this Agreement, KFHP-GA means KFHP-GA, Kaiser Foundation Health Plan, Inc., The Southeast Permanente Medical Group, Inc., all other Permanente Medical Groups, Kaiser Foundation Hospitals, and each of their subsidiaries and affiliated corporations, and KFHP-GA Insurance Company, collectively. Without limiting the foregoing, any Advertising Materials that are to be used or distributed by Producer, which relate in any manner to KFHP-GA health benefit plans, must have prior written approval from KFHP-GA's Director, Sales Operations, or Vice President of Marketing, Sales and Business Development (MSBD), or his/her designee, before Producer can use or distribute them when providing services under this Agreement. Producer will comply with all KFHP-GA policies and procedures regarding the use of all such materials. Producer shall cease and desist from any unauthorized activity under this Subsection 1(f) immediately upon notice or termination of this Agreement, whichever occurs first.

**g. Cancellation and Rescission of Enrolled Employer Group and/or Individual Contracts; Review of Applications.**

- i. KFHP-GA reserves the right to cancel and/or rescind the Contract of any enrolled employer Group and/or individual solicited by Producer, as permitted by law.
- ii. Producer acknowledges and agrees that KFHP-GA will monitor the number of enrolled employer Groups and/or individuals solicited by Producer that request or otherwise bring actions seeking the cancellation and/or rescission of their respective Contract. Without limiting KFHP-GA's termination rights under Subsection 4.1(c), such requests for cancellation and/or rescission or actions to

cancel and/or rescind Contracts which have an adverse impact on KFHP-GA may result in the immediate termination of this Agreement.

- iii. Producer acknowledges and agrees that KFHP-GA will conduct random quality reviews of applications, enrollment documents, and any other materials submitted by Producer on behalf of employer Groups and/or individuals in order to ensure the accuracy of information disclosed on such applications, enrollment documents and/or materials. Without limiting KFHP-GA's termination rights under Subsection 4.1(c), alterations made by Producer or directed to be made by Producer which distort the accuracy of the information disclosed on the applications, enrollment documents and/or materials submitted by Producer on behalf of employer Groups and/or individuals may result in the immediate termination of this Agreement.

**h. Misrepresentation:** Producer shall not misrepresent KFHP-GA's products and benefit plans to employers, prospective members, or existing members. Producer shall not provide false or misleading statements about KFHP-GA's health plan, products, or benefit plans. Producer shall not discriminate against employers, prospective members or existing members based on sex, race, religion, family status, national origin, military status, age or disability when marketing or selling KFHP-GA's health plan, products, or benefit plans. Only licensed and appointed Producers can discuss KFHP-GA's insurance products and benefit plans with existing employer Groups, prospective employer Groups, existing members or prospective members.

## **2. Representations and Warranties.**

**a. Qualifications.** Producer certifies that Producer is duly licensed and in good standing under the laws of the State of Georgia to perform the services described in this Agreement including, but not limited to, soliciting, negotiating or selling benefit products offered by KFHP-GA and listed in *Exhibit A*, to employer Groups and/or individuals. Producer further certifies to KFHP-GA that Producer has fully disclosed all information requested in KFHP-GA's Producer application and that all information disclosed in such application is complete, true, and correct. If Producer's license is suspended or terminated, or if any response contained in Producer's application is or becomes inaccurate, misleading or false after being submitted to KFHP-GA, Producer will provide written notice to KFHP-GA within three (3) business days. Producer shall provide updated accurate and complete information within such timeframe.

**b. Character and Fitness.** Producer hereby authorizes KFHP-GA, or its designee, to perform character and fitness investigations including, but not limited to, credit and/or criminal background investigations, on an annual basis or at other such times as determined to be necessary by KFHP-GA in the exercise of its sole discretion. Inquiries may include contacting individuals with whom Producer is acquainted and checking records that can include information as to Producer's character, general reputation, criminal background, personal characteristics, and mode of living. Producer shall cooperate with KFHP-GA and/or its designee for purposes of performing the character and fitness investigation including, but not limited to, supplying any applicable authorizations as may be required from time to time. Producer's failure to cooperate is grounds for termination of this Agreement. In the event Producer learns that he or she is being investigated, disciplined, or sanctioned, or an adverse action is being taken, by any local, state, or

federal regulatory authority, against Producer for any reason, Producer shall furnish written notice of such investigation, discipline, sanction, or impending action, whether such notice was received by Producer orally or in writing, to KFHP-GA within three (3) business days of receipt of notice by Producer.

**c. Independent Contractor.** At all times during the term of this Agreement, the relationship between KFHP-GA and Producer shall not be construed or deemed to establish or create a relationship of employer and employee, partnership, joint venture, or association between KFHP-GA and Producer. As an independent contractor, Producer agrees to pay in a timely manner all income taxes, FICA taxes and other taxes relating to payments made by KFHP-GA to Producer pursuant to this Agreement. Producer shall not bind KFHP-GA or make any representations which would have the effect of binding KFHP-GA to a Contract with any Group or individual, nor shall the parties bind each other with respect to any other obligations, express or implied, unless the party has obtained the express written permission of the other. This Agreement is not intended to, nor does it create, any third-party beneficiary rights in any person or entity.

**d. Compliance with Laws and Policies.** Producer agrees to comply fully and promptly with all laws, regulations, and KFHP-GA policies and procedures applicable to the performance of duties, responsibilities and obligations hereunder.

**e. Insurance.** Producer will maintain errors and omission insurance to the satisfaction of KFHP-GA, with minimum policy limits of \$1 million per claim and \$2 million in the aggregate, at all times during the term of this Agreement or while eligible to receive commissions pursuant to this Agreement, whichever is longer. Upon request by KFHP-GA, Producer will provide evidence of such insurance coverage to KFHP-GA. Producer will notify KFHP-GA in writing within five (5) days of any proposed cancellation or change in coverage of Producer's errors and omission insurance.

**f. Indemnification.** Producer agrees to indemnify, hold harmless and, at the request of KFHP-GA, defend KFHP-GA, its agents, officers, and employees from any and all losses, claims, actions, liability, costs, damages and expenses (including costs of judgments, settlements, court costs and attorneys' fees, regardless of the outcome of the claim or action) arising out of or related in any way to the performance or non-performance by Producer and/or Producer's agents, employees, and independent contractors of any term, condition, or obligation under this Agreement. This obligation shall survive the termination of this Agreement.

**g. Appointment and Licensing Requirements.** Producer will be eligible for appointment with KFHP-GA if he/she (1) has a valid license in the State of Georgia, including completion of required CE courses, (2) has logged onto the KP BrokerNet (web address provided in Exhibit D) and read, signed and agrees to abide by KFHP-GA's Vendor Code of Conduct, as set forth in the Principles of Responsibility (POR) available on the KP BrokerNet, (3) completes KFHP-GA's Producer Training, (4) becomes appointed with both KP entities in Georgia – KFHP and Kaiser Permanente Insurance Company (KPIC), and (5) meets the appointment qualifications which include, but are not limited to, provision of the following documentation:

- i. Broker Application
- ii. W-9
- iii. Credit Report and Release Form (for Non-Resident producers)
- iv. Criminal History form and report
- v. Producer Services and Commission Agreement
- vi. Signature on the Attestation Page for the Kaiser Permanente Principles of Responsibility, available on the Kaiser Permanente BrokerNet
- vii. GID 122 Form
- viii. Copy of Georgia License (Resident or Non-Resident)
- ix. DOI Status with current contact information
- x. Error & Omission Certificate
- xi. Training Completion History

Appointment with KFHP-GA will be denied based on, but not limited to, the following: (1) Felony Conviction, (2) two or more Misdemeanor Convictions within 10 years, or (3) Other Reasons subject to Management approval.

**h. Appointment Renewal Requirements:** Producer will remain eligible for appointment renewal with KFHP-GA if he/she:

- (1) maintains a valid license in the State of Georgia, including completion of required CE courses and maintenance of current contact information,
- (2) completes KFHP-GA's annual Producer Training
- (3) maintains appointment with both KP entities in Georgia – KFHP and Kaiser Permanente Insurance Company (KPIC), and
- (4) continues to meet the appointment qualifications as specified above.

**i. Producer Training.** Prior to soliciting employer Groups and/or individuals to enroll in any health benefit plan offered, issued, administered or marketed by KFHP-GA, Producer agrees to participate in a KFHP-GA approved orientation and training program concerning KFHP-GA's health benefit plans and administrative procedures. Producer also agrees to participate annually in training activities as requested by KFHP-GA, available in an instructor-led setting or accessible via KP's Broker Net. Initial training and annual training may be conducted by KFHP-GA or its designee.

### **3. Payments by KFHP-GA**

**a. Payment of Commissions.** Subject to the terms of this Section 3, KFHP-GA agrees to pay to Producer a commission based on the total amount of Group and/or member premiums paid by employer Groups and/or individuals during the preceding month on Contracts which have been solicited by Producer and accepted by KFHP-GA for enrollment and for which Producer is the designated "Agent of Record" for the full calendar month. Commissions will not be paid on individual continuation or conversion policies.

**b. Calculation of Commission.** KFHP-GA will pay a commission to Producer based on the terms and conditions set forth in the current commission schedule attached as *Exhibit C* and incorporated herein by reference. Producer acknowledges and agrees that, consistent with

Subsection 5(d) below, KFHP-GA may change the current commission schedule on ninety (90) days written notice to Producer at any time without obtaining consent of Producer. Each revised commission schedule shall apply to all Contracts solicited by Producer and accepted by KFHP-GA and/or any renewal(s) thereof after the date such new commission schedule becomes effective. Notwithstanding the foregoing, Producer shall not be entitled to commissions based on (i) amounts not collected from employer Groups and/or individuals, (ii) amounts collected by collection agencies from employer Groups and/or individuals whose contracts have been terminated for nonpayment, or (iii) products excluded from Producer's scope of authority as identified in *Exhibit A*.

**c. Timing of Payments.** Commissions will be paid on a monthly basis. Such amounts (if any) will be paid to Producer no later than ninety (90) days after the end of the month in which the premiums are collected, subject to the provisions of Subsection 3(d), below. It is the responsibility of Producer to review the commission payments upon receipt to ensure that they reflect all amounts due and owing under this Agreement.

**d. Entitlement to Payments.** During the term of this Agreement, commissions will be paid provided that: (i) Producer has not breached any term of this Agreement; (ii) the Contracts have not been terminated; (iii) Producer was a licensed and appointed Producer at the time such commissions were earned and paid; (iv) Producer, at the time of sale, negotiation or solicitation was licensed in the State of Georgia for any line, class, or classes of insurance; and (v) Producer maintains a current license and appointment thereafter. If this Agreement is terminated without cause pursuant to Subsection 4.1(b) by Producer, or is terminated with cause pursuant to Subsection 4.1(c) by KFHP-GA, or is terminated pursuant to Subsection 4.1(e) or Subsection 4.1(f) or Subsection 4.1(g), all commissions will cease upon the effective date of termination of this Agreement and Producer shall no longer be paid, receive, or have any claim for or right to commissions. If this Agreement is terminated without cause by KFHP-GA pursuant to Subsection 4.1(a) and the requirements set forth in the first sentence of this Subsection 3(d) continue to be met, KFHP-GA will continue to pay commissions to Producer pursuant to the terms of this Agreement for the remainder of the term of each Contract for which Producer is entitled to payment of commissions pursuant to this Agreement, but in no event shall payments continue after the effective date of termination of this Agreement pursuant to 4.1(a) hereunder.

**e. Existing Membership Contracts.** Producer will not be entitled to the payment of any commission by KFHP-GA for Contracts solicited by Producer, if the employer Group and/or individual that enters into such Contract is, at the time of solicitation or offer to contract by Producer, the holder of a current Contract (including a renewal of such Contract).

**f. Other KFHP-GA Health Plans.** Producer will not be entitled to the payment of any commission by KFHP-GA for premiums paid to Kaiser Foundation Health Plan, Inc., or any of its subsidiaries or affiliated corporations, or to KFHP-GA Insurance Company, even if such premiums are paid by an employer Group and or individual solicited by Producer. Producer may, however, negotiate with Kaiser Foundation Health Plan, Inc., or its subsidiaries or affiliated corporations, or with KFHP-GA Insurance Company, regarding payment of a commission.

**g. Error in Payment.** In the event that an error is made in the calculation and/or payment of commission or bonus under this Agreement, regardless of the reason for the error, or which party made the error, both parties agree that correction of the error requiring payments to Producer or recovery of payments from Producer shall be made retroactively for a maximum of one hundred eighty (180) days from the date the error was discovered by KFHP-GA. For errors discovered by Producer, within five (5) business days of discovery, Producer will notify KFHP-GA of any commissions erroneously paid to Producer and will arrange for the reimbursement of any commissions erroneously paid to Producer for any reason including, but not limited to, payment resulting from clerical error or payment resulting from a premium payment returned by KFHP-GA. KFHP-GA will reimburse Producer any commissions owed to Producer within ninety (90) days of discovery by KFHP-GA. KFHP-GA may collect any payments owed by Producer to KFHP-GA in either a lump sum payment or by offsetting such amounts against commissions owed by KFHP-GA to Producer, as determined by KFHP-GA in the exercise of its sole discretion. All financial reconciliation will be completed within ninety (90) days of discovery. This paragraph shall not in any way limit KFHP-GA's right to collect any indebtedness of Producer to KFHP-GA, through offset of commissions or otherwise, for reasons other than error in calculations.

**h. Cancellation of Membership Contract.** In the event that KFHP-GA cancels the Contract of an enrolled employer Group and/or individual solicited by Producer, commissions payable to Producer for such enrollees shall cease as of the effective date of termination of such Contract. KFHP-GA may collect any payments owed by Producer to KFHP-GA in either a lump sum payment or by offsetting such amounts against commissions owed by KFHP-GA to Producer, as determined by KFHP-GA in the exercise of its sole discretion.

**i. Payment of Producer Appointment and Appointment Renewal Fees.** For each year in which the Producer has active accounts with KFHP-GA and continues to generate new business for KFHP-GA, KFHP-GA will pay the Producer's Appointment Fee and Appointment Renewal Fee.

#### **4. Term and Termination**

**4.1 Term.** The term of this Agreement shall commence on the date first specified above and will continue in effect until such time as this Agreement is terminated pursuant to Subsections 4.1(a), 4.1(b), 4.1(c), 4.1(e), 4.1(f), or 4.1(g) below, following the timeline specified in 4.1(h) below.

**a. Termination Without Cause by KFHP-GA.** This Agreement may be terminated by KFHP-GA without cause, upon no less than ninety (90) days written notice to the other party. However, KFHP-GA may terminate this Agreement with cause during the ninety (90) day period pursuant to Subsection 4.1(c) below. All commissions will cease upon the effective date of termination of this Agreement and Producer shall no longer be paid, receive, or have any claim for or right to commissions.

**b. Termination Without Cause by Producer.** This Agreement may be terminated by Producer without cause, upon 90 days written notice to KFHP-GA. On the effective date of a

voluntary termination of this Agreement by Producer: (i) the Producer shall thereafter be terminated as the "Agent of Record" for all Contracts that the Producer solicited on behalf of, and which were accepted by, KFHP-GA; and (ii) the Producer thereafter will no longer be paid, receive, or have any claim for or right to commissions from KFHP-GA.

**c. Termination With Cause.** KFHP-GA may terminate this Agreement immediately upon written notice to Producer in the event that:

- i. Producer's insurance license is suspended or terminated or Producer otherwise fails to provide KFHP-GA with timely notification of any modification to the policy as required under Subsection 2(e) of this Agreement;
- ii. Producer fails to complete fully and remit promptly to KFHP-GA renewal applications and related information requested by KFHP-GA from time to time as required under Subsection 2(h) of this Agreement;
- iii. Producer is investigated, disciplined or sanctioned, or an adverse action is taken, by any local, state, or federal regulatory authority for any reason, or Producer otherwise fails to provide KFHP-GA with timely notification of such actions as required under Subsection 2(a) of this Agreement, or Producer otherwise fails to cooperate with KFHP-GA for purposes of performing a character and fitness investigation as required under Subsection 2(b);
- iv. Producer commits, or is alleged to have committed, any act of fraud, material misrepresentation, misfeasance, or malfeasance, as determined by KFHP-GA in the exercise of its sole discretion including, but not limited to, alterations made by Producer, or directed to be made by Producer, to the information disclosed on individual, employer and/or employee applications, enrollment documents and/or any other materials submitted by Producer on behalf of employer Groups and/or individuals;
- v. Producer fails to comply with any material provision of this Agreement including, but not limited to, any term or condition under Sections 1 and 2 of this Agreement which are deemed to be material by KFHP-GA in the exercise of its sole discretion;
- vi. Producer acts in a disruptive, abusive or unruly manner towards KFHP-GA employees, agents, prospective or existing customers of KFHP-GA, or other Producers, as determined by KFHP-GA, in the exercise of its sole discretion;
- vii. KFHP-GA determines, in the exercise of its sole discretion, that (1) a number of employer Groups and/or individuals solicited by Producer have requested termination or rescission or otherwise brought actions to terminate or rescind their Contracts which has an adverse impact on KFHP-GA, or (2) KFHP-GA has requested termination or rescission or otherwise brought actions to terminate or rescind its Contracts with a number of employer Groups and/or individuals which has an adverse impact on KFHP-GA;
- viii. KFHP-GA determines, in the exercise of its sole discretion, that (1) one or more employer Group(s) and/or individual(s) solicited by Producer have requested termination or rescission or otherwise brought actions to terminate or rescind their Contracts, on grounds of material significance to KFHP-GA, or (2) KFHP-GA has requested termination or rescission or otherwise brought any action to

terminate or rescind a Contract with one or more employer Group(s) and/or individual(s), on grounds of material significance to KFHP-GA;

- ix. Producer files a petition of insolvency under federal or state bankruptcy law or upon the appointment of a receiver to handle the affairs of Producer; or

**d. Progressive Consequences.** KFHP-GA initiates progressive consequences, up to and including appointment termination and termination of this Agreement, for failure to maintain a current license. The initial consequence of failure to maintain a current license is non-payment of commissions by KFHP-GA to the Producer, as detailed in Subsection 3.d. above.

**e. Termination by Operation of the Law.** KFHP-GA may terminate this Agreement immediately upon written notice to Producer in the event that any state or federal agency, court, administrative or regulatory body orders the termination of this Agreement or no longer permits the arrangements specified in this Agreement.

**f. Termination for Impossibility.** KFHP-GA may terminate this Agreement immediately upon written notice to Producer in the event that KFHP-GA gives notice that it shall cease offering all of the health benefit plans listed in *Exhibit A* and/or KFHP-GA gives notice that it shall cease doing business in the territory listed in *Exhibit B*. KFHP-GA may terminate this Agreement immediately upon written notice to Producer's designated beneficiary, in the event of Producer's death or retirement, subject to Section 4.3 of this Agreement.

**g. Provision For When Producer Moves Out of State.** In the event that Producer is no longer licensed by the State of Georgia as a resident, this Agreement will terminate immediately, unless Producer obtains, and provides to KFHP-GA, evidence of having a nonresident insurance license for the State of Georgia.

**h. Appointment Termination Process.** To terminate the Producer's appointment with KFHP-GA, KFHP-GA will verify Producer's status via the Georgia Department of Insurance website and will notify the Commissioner via fax of the Producer's Appointment Termination within 30 days using Form GID-122. Following appointment termination, KFHP-GA will notify the Producer of Appointment Termination via email/letter.

#### **4.2 Assignment Rights.**

**a. Producer may assign its rights under this Agreement to another Producer provided that:**

- i. The assignment is in writing, permanent and irrevocable, notarized and in a form acceptable to KFHP-GA;
- ii. The assignee agrees to assume all of Producer's obligations and responsibilities under this Agreement. The assignee agrees to notify and gain consent of the change from all Contract holders whom the assignment will affect;
- iii. The assignee has a standard Producer Agreement then in force and in good standing, or is acceptable to KFHP-GA, qualifies for, and enters into a Producer Agreement with KFHP-GA;

- iv. This Agreement is in full force and good standing at the time of assignment; and
- v. KFHP-GA consents to such assignment in writing. KFHP-GA may withhold such consent in the exercise of its sole discretion.

#### **4.3 Designated Beneficiaries.**

**a. In the event of the death of the Producer,** the beneficiary designated in Section 6 of this Agreement may assume the obligations of Producer under this Agreement provided such person gives written notice to KFHP-GA within thirty (30) days of Producer's death of the intent to assume this Agreement and also performs all the conditions in Subsection 4.3(b) below within the one (1) year period following the death of the Producer. Such person shall have no right, interest or claim against KFHP-GA until such person has satisfied all conditions of the assumption set forth below under Subsection 4.3(b) of this Agreement. Furthermore, such person's rights under this Agreement (including the payment of commissions) accrue only after the date upon which KFHP-GA consents to assumption of this Agreement, and such person shall have no claim (including a claim for commission) except for those accruing from services rendered by such person after the effective date of assumption.

**b. Conditions:**

- i. The beneficiary is a duly licensed insurance producer in the State of Georgia and is in good standing;
- ii. The beneficiary agrees to notify and become "Agent of Record" for all Contracts negotiated by Producer;
- iii. The beneficiary has a standard Producer Agreement then in force and in good standing, or is acceptable to KFHP-GA, qualifies for, and enters into a Producer Agreement with KFHP-GA;
- iv. This Agreement is in force and in good standing at the time of assumption by such person; and
- v. KFHP-GA consents to such assumption in writing. KFHP-GA may withhold such consent in its sole discretion.

**c. Notwithstanding any other provision of this Agreement to the contrary,** the right given by this Section 4.3 to assume this Agreement shall not confer any right on any other person.

#### **5. Miscellaneous.**

**a. Confidentiality.** Producer agrees that all information acquired during the term of this Agreement including, but not limited to, information regarding (i) pricing and rating, marketing plans, contract and business practices, and underwriting processes, (ii) employer Groups or individuals, (iii) information or records containing identifiable medical record information, summaries of such medical records and compilations of medical records data, and (iv) any other information that is confidential and proprietary or represents a competitive advantage obtained during the term of this Agreement (The "Confidential Information") is confidential and shall be the sole property of KFHP-GA. Producer agrees to use and disclose such Confidential

Information solely for the purpose of performing the services described in this Agreement including, but not limited to, soliciting enrollment of employer Groups and individuals in health benefit plans offered by KFHP-GA. Such Confidential Information shall not be disclosed to any other party without the prior written consent of KFHP-GA. Producer shall inform those who have access to the Confidential Information that they must treat it as confidential and cannot use or disclose it, or any information developed from it, except as expressly authorized by this Agreement or required by law, including administrative regulation and judicial or administrative process, subject to the requirement that when Producer is subject to such process, Data Recipient shall provide reasonable notice to KFHP-GA prior to any disclosure if Producer is lawfully permitted to provide notice. Upon notice of the termination of this Agreement, Producer shall return all such materials, including all copies thereof, whether or not authorized, to KFHP-GA.

**b. Health Insurance Portability and Accountability Act (HIPAA) – Privacy and Security Rules.** Producer understands and agrees that this Agreement and certain protected health information (PHI) which may be exchanged hereunder is subject to the Health Insurance Portability and Accountability Act of 1996 and regulations issued thereunder ("HIPAA"). Producer agrees to comply with HIPAA, including but not limited to HIPAA standards for (i) privacy, (ii) health care standard electronic transactions and code sets, and (iii) security regarding physical storage, maintenance, transmission of and access to individual health information. This obligation shall survive the termination of this Agreement.

**c. Arbitration.** Any dispute arising under this Agreement including, but not limited to, indemnification, defense, and hold harmless obligations shall be referred for decision by arbitration. An arbitrator who is familiar with managed health care shall be selected by the parties. The preceding shall be governed by the rules of the American Arbitration Association ("AAA") then in effect or such rules last in effect (in the event that the AAA is no longer in existence). If the parties are unable to agree upon such arbitrator within thirty (30) days after either party has given the other party written notice of its desire to submit the dispute, controversy or question for decision, then either party may apply to the AAA for the appointment of an arbitrator, or if the AAA is not in existence or does not desire to act in the matter, each party shall appoint an arbitrator of its choice. The appointed arbitrators shall select a third arbitrator to hear the parties and settle the dispute, controversy or question. Arbitration shall take place in Atlanta, Georgia.

**d. Notice.** Any notice required by this Agreement shall be effective on the date personally delivered or mailed by certified mail, postage prepaid, to the party at the address set forth below or any such other address in writing:

Producer: (Address)

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Kaiser Foundation Health Plan of Georgia, Inc.

Nine Piedmont Center

3495 Piedmont Road

Atlanta, Georgia 30305-1736

Attention: Broker Services Department

**e. Entire Agreement; Modification.** This Agreement contains the entire understanding of the parties and can be modified only by a written document signed by each party.

Notwithstanding the preceding sentence, KFHP-GA reserves the right to modify unilaterally the product designation schedule (*Exhibit A*), territory designation schedule (*Exhibit B*), commission schedule(s) (*Exhibit C*), and/or BrokerNet web-based resources (*Exhibit D*) upon thirty (30) days prior written notice. In addition, this Agreement shall automatically be amended to comply with any applicable federal, state, or local law, regulation, order or directive of any governmental agency. Neither party to this Agreement has made any representation or warranty relating to this Agreement or the subject matter of this Agreement except those specifically contained in writing in this Agreement.

**f. Waiver.** No party shall be deemed to have waived any rights under this Agreement unless the waiver is made in writing and signed by a duly authorized representative of the waiving party. The failure to exercise any right or remedy under this Agreement shall not operate as a waiver of such right or remedy. A waiver by any party of a breach of a provision of, or representation in, this Agreement and/or any delay in acting with regard to such breach of a provision of, or representation in, this Agreement shall not constitute a waiver of that provision or representation or any other provision or representation.

**g. Time is of the Essence.** Each condition, obligation, or requirement of this Agreement must be satisfied within the time specified in this Agreement. Time is of the essence with regard to each such condition.

**h. Severability.** In the event that any term or condition of this Agreement is determined to be invalid or unenforceable by a court of competent jurisdiction, such term or condition shall be severed from this Agreement and the remaining terms and conditions shall be given their full force and effect.

**i. Jurisdiction.** This Agreement shall be construed in accordance with the laws of the State of Georgia.

**6. Beneficiary Designation:** In the event of the death of the Producer, Producer hereby designates the following individual as sole beneficiary pursuant to Subsection 4.3(a) of this Agreement.

Beneficiary Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**IN WITNESS WHEREOF**, Producer and KFHP-GA executed this Agreement on the day and year set forth at the beginning of this Agreement.

Producer Signature \_\_\_\_\_

By: \_\_\_\_\_

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

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

Kaiser Foundation Health Plan of Georgia, Inc.

By: Phillip J. Jones \_\_\_\_\_

Title: Director, Sales Operations and Support \_\_\_\_\_

Date: January 1, 2010 \_\_\_\_\_

**EXHIBIT A**  
**Kaiser Foundation Health Plan of Georgia, Inc.**

**Producer Product Designation**

All products except any Medicare and conversion coverage.

**EXHIBIT B**  
**Kaiser Foundation Health Plan of Georgia, Inc.**

**Producer Territory Designation**

The designated area consists of all counties in the state of Georgia in which KFHP-GA does business, as identified by KFHP-GA from time to time in the exercise of its sole discretion.

**EXHIBIT C**  
**Kaiser Foundation Health Plan of Georgia, Inc.**  
**2010 Producer Commission Schedule**

| <b><u>Commission Schedule</u></b>      | <b>2010<br/>New Sales &amp; Renewal<br/>Business Commission<br/>Percentages</b> |
|--|---|
| <b>Individuals (Personal Plans)</b>    | 11%   |
| <b>Groups (2-50 ees)</b>               |   |
| <b>A, B, &amp; C Health Risk Level</b> | 7%  |
| <b>D thru H Health Risk Level</b>      | 5.5%  |
| <b>I, J, and K Health Risk Level</b>   | 4.4%  |
| <b>Groups (51-100 ees)</b>             | 5%  |
| <b>Groups (101-249 ees)</b>            | 5%  |
| <b>Groups (250+ ees)</b>               | Negotiable  |

**For groups 2 – 50, the amount of Producer commission payment may change if there is a change in the risk level of the group. For purposes of this Agreement, the commission payment is calculated by multiplying the monthly premium received by the appropriate commission percentage.**

**EXHIBIT D**  
**Kaiser Foundation Health Plan of Georgia, Inc.**

**KP BrokerNet Resources**

**BrokerNet can be accessed by one of the following 3 ways:**

1. [www.broketnet.kp.org/ga](http://www.broketnet.kp.org/ga)
- 2.
3. [www.broketnet.kp.org](http://www.broketnet.kp.org) then select **Georgia**
- 4.
5. [www.kp.org](http://www.kp.org) then select **Brokers**

**Items currently on BrokerNet**

For Brokers interested in working with us:

- Broker Information – How to get appointed with us
  1. Summary of information and refers brokers to L&A to obtain appointment paperwork
  2. For 2010, Appointment Forms
  3. For 2010, Principles of Responsibility (POR)  
[http://kpnet.kp.org/national/compliance/download\\_docs/principles/KP\\_POR\\_2007.pdf](http://kpnet.kp.org/national/compliance/download_docs/principles/KP_POR_2007.pdf)
  4. For 2010, POR Attestation Page

For Brokers working with us:

[https://broketnet.kp.org/broker/resources/kpbn\\_ga/workkp?WCM\\_GLOBAL\\_CONTEXT=#](https://broketnet.kp.org/broker/resources/kpbn_ga/workkp?WCM_GLOBAL_CONTEXT=#)

- Compensation – includes content summary and pdfs
  1. Commission Schedule – page summary and pdf
  2. Bonus Plans: SG and Mid – page summary and pdf
  3. Broker Rewards – page summary and pdf