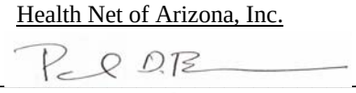
Agent/Broker Agreement

This Agreement is made by and between Health Net of Arizona, Inc., a state licensed health care services organization, Health Net Life Insurance Company, a state licensed life and disability insurer, and Health Net of Arizona Administrative Services, Inc., a state licensed insurance third party administrator, (collectively, "Plans");
and

_____,
("Broker").

This agreement contains a binding arbitration clause that may be enforced by the parties.

The parties have caused this entire Agreement, inclusive of page numbers 1 through 12, and any attached appendices, to be duly executed as of the date and year first written.

Broker	Health Net of Arizona, Inc.
By _____	By  Paul D. Barnes
Its _____	Its Arizona Plan President Health Net of Arizona, Inc Health Net Life Insurance Company
Date _____	Date _____

_____ Broker Name	_____ Company Name* (if applicable)
_____ Broker Phone Number	_____ Broker Fax Number
_____ Street Address	_____ Broker E-Mail Address
_____ City, State, Zip	_____ Social Security # (if payable to individual)
_____ Check Payable To	_____ Federal Tax ID # (if payable to corporation)
	_____ National Producer Number (NPN)

*If a corporation, please list the full name of all life/health brokers included under this agency's license:

_____ _____
_____ _____
_____ _____

Current Arizona Accident/Health and Life Producer License and form W-9 must be enclosed.

In consideration of the mutual covenants set forth in this Agreement, Plans and Broker agree as follows:

SECTION 1: DEFINITIONS. For the purposes of this Agreement:

1.1. "Broker" means the above-named Broker/agency who:

1.1.1 is duly licensed pursuant to the laws of the state in which Benefit Contracts are sold;

1.1.2 is approved by Plans to solicit enrollment of Enrolling Units under this Agreement;

1.1.3 has executed this Agreement with Plans to solicit enrollment of Enrolling Units under this Agreement; and

1.1.4 is Broker of Record for the Enrolling Unit.

1.2 "Broker of Record" means a written designation executed by an Individual Subscriber or by a Group Employer on the Group Employer letterhead that establishes Broker as the Individual Subscriber's or the Group Employer's representative for the presentation and recommendation of health benefits programs and which designation has been accepted in writing by the Plans for the purpose of this Agreement. An Individual Subscriber and a Group Employer may have only one Broker of Record at any given time. An Individual Subscriber cannot alter its Broker of Record during a continuous term of coverage.

1.3 "Subcontractor" means, notwithstanding and in congruence with paragraph 2.5 herein, any party or entity that enters into a contract with a Broker or Broker of Record for purposes of providing administrative services related to the Agreement between Broker or Broker of Record and the Plans.

1.4 "Premium" the amount received for a benefit contract that excludes ACA taxes and fees and other applicable premium taxes. Any reference to the term premium used throughout the Agreement refers to the premium net of applicable ACA taxes and fees and other applicable premium taxes.

1.5 "Benefit Contract" means the health, medical, accidental death and dismemberment, dental, vision, long-term care, long-term-disability, short-term-disability, supplemental and excess loss coverage, life, and any other appropriately licensed benefit contracts, group enrollment agreements and policies approved by Plans to be marketed and issued to Enrolling Units under this Agreement at premium rates established and approved by Plans. The term Benefit Contract shall also include the summary plan description outlining the services covered by a Group Employer and administered by Plans pursuant to an administrative services agreement between Plans and self-funded Group Employers. The parties each agree that for Broker Commission calculation and payment purposes, the term Benefit Contract shall not include any individual policy issued as a Conversion Policy upon the termination of the individual coverage under any Group Agreement of Plans, any individual policy the issuance of which is guaranteed pursuant to state or federal law, or policies issued under HCFA guidelines.

1.6 "Broker Commissions" means the payments due Broker by Plans for the services performed by Broker under this Agreement for an Enrolling Unit. The Broker Commissions shall be calculated and paid as provided for in the Schedule if Commissions to the Broker Agreement attached hereto and incorporated herein ("Appendix A").

1.7 "Defined Service Area" means the geographic area in which Broker may solicit enrollment of Enrolling Units under this Agreement and limited to the counties in which Plans and Broker are licensed to operate.

1.8 "Enrolling Unit" means an Individual Subscriber approved by Plans and accepted for enrollment under a Benefit Contract, or an Employer Group solicited under this Agreement which (i) is located in the Defined Service Area, (ii) has at least the minimum number of employees eligible for group health benefits accepted by Plan for enrollment in a Benefit Contract, and (iii) is approved by Plans and accepted for enrollment under a Benefit Contract.

1.9 "Group Employer" means any entity that has elected to purchase a Benefit Contract from or through Plans for the benefit of its employees and their eligible dependents.

1.10 "Individual Subscriber" means an individual that has elected to purchase a Benefit Contract from or through Plans for the benefit of the individual and his or her eligible dependents.

1.11 "Enrollee" includes Individual Subscribers and the employees and eligible dependents of a Group Employer.

SECTION 2: AUTHORITY AND GENERAL RESPONSIBILITIES OF BROKER.

2.1 **Authority of Broker.** If Broker is an agency or a corporate brokerage firm, Broker represents and warrants that (i) it has the authority to contract on behalf of and bind the individual brokers employed by Broker to this Agreement, (ii) that only Broker and Broker's appropriately licensed and qualified employees shall perform services under this Agreement, (iii) that Broker shall cause individual brokers employed by it to comply with all the terms of this Agreement and to seek payment solely and exclusively from Broker and not directly from Plans. Broker shall have no authority to bind Plans to coverage under Benefit Contracts, to alter rates, to effectuate or countersign insurance contracts, or to modify conditions or terms of coverage, applications, or Benefit Contracts. Broker shall have authority to accept funds only in the form of checks or money orders made payable directly to Plans and shall have no authority to accept funds for the account of Plans. Broker shall have authority to solicit enrollment of Enrolling Units in Benefit Contracts under the terms, conditions, and limitations of this Agreement. Plans may from time to time adjust the minimum Enrolling Unit size it will accept for enrollment. Any such adjustment shall be communicated to Broker on a timely basis. Plan recognizes the client relationship of Broker with Group Employers and Individual Subscribers. However, Broker recognizes the need of Plan to work directly with Group Employers and their employees and Individual Subscribers, and will assist Plan in this effort. Broker further agrees it will not hinder the accomplishment of this task in any manner.

2.2 **Licensure.** Broker shall at all times maintain appropriate licenses for the Benefit Contracts being sold and provide Plans with written proof of such licensure on behalf of itself and, if applicable, all of its Broker employees, prior to execution of this Agreement. Broker shall, upon renewal of any and all such licenses, continually provide Plans with copies of current licenses required by this Agreement. Broker acknowledges and agrees that pursuant to applicable law, Plans shall not pay any commission or other remuneration to Broker either during the term of this Agreement or after its termination or expiration unless Broker has then-current and valid licenses on file with Plans. Broker shall promptly notify Plans of the institution of any disciplinary proceedings related to the licenses issued to Broker or to any of Broker's employees by any regulatory agency.

2.2.1 **Curriculum Certificate/Brokers/Agencies or Brokers of Record** Per CMS guidelines, all Brokers/Agencies or Brokers of Record who sell or intend to sell Federally Facilitated Marketplace (FFM) business and/or Federally Facilitated Small Business Health Options Program (FF-SHOP) business, must be Certified. All Certified Brokers/Agencies or Brokers of Record who sell or intend to sell FFM or FF-SHOP business must submit their current: (i) Curriculum Certificate(s); (ii) National Producer Number (NPN); and (iii) FFM User ID with this Agreement. Failure to provide this information will forfeit the Brokers'/Agencies' or Brokers' of Record commissions for any FFM and/or FF-SHOP business. Brokers/Agencies or Brokers of Record need to submit this information annually or their commissions for sales processed either prior to FFM/ FF-SHOP registration or after FFM/ FF-SHOP registration expiration will also be forfeited.

2.2.2 **Curriculum Certificate/Agencies with Multiple Brokers.** Agencies with multiple brokers selling on the FFM and/or FF-SHOP must submit the following with this Agreement: (i) FFM Curriculum Certificates for the Agency ; (ii) NPN's; (iii) FFM User IDs for the Agency; and (iv) each of the names of the brokers selling on the FFM and/or FF-SHOP. Failure to provide this information, will forfeit the Agency's commissions for any FFM and/or FF-SHOP business. Agencies/brokers need to submit this information annually or their commissions for sales processed either prior to FFM/FF-SHOP registration or after FFM/FF-SHOP registration expiration will also be forfeited.

2.3 **Records.** The parties hereto shall maintain adequate records relating to the business contemplated hereunder in accordance with applicable law. Such records shall be maintained for a period of at least ten (10) years. Upon reasonable notice, each party hereto, their authorized representatives and appropriate regulatory agencies will have the right, at all reasonable times and to the extent permitted by law, to inspect all such records, provided, however, that such examinations be carried out in a manner that reasonably protects the confidentiality of individual medical information. The obligation to maintain such records and provide such information shall not terminate upon the termination of this Agreement.

2.4 **General Responsibilities.** Broker shall perform all services and obligations under this Agreement in compliance with all applicable local, state and federal laws, regulations, guidelines and directives, including without limitation those governing the marketing of Benefit Contracts now or hereafter in effect. Broker shall additionally comply with all policies, procedures, guidelines and directives of Plans. Broker shall complete initial and ongoing training with Plans to assure compliance by Broker with Plans' marketing and enrollment policies. Such training shall include, but is not limited to, open enrollment training, sales call training, and routine evaluation of Broker's performance under this Agreement and such other training as may be required by Plans from time to time. Broker shall have sole responsibility to compensate individual brokers employed by it for services provided in this Agreement. In the event of non-payment by Broker, no individual broker shall have recourse against Plans or Insurance Plan.

2.5 **Use and Disclosure of Individual Information.** In the performance of Agent/Broker's services for Health Net of Arizona, Inc., Health Net Life Insurance Company and Health Net of Arizona Administrative Services, Inc., ("Heatlh Net" or "Covered Entity") under this Agreement, Agent/Broker's and its employees and sub-agents (collectively "Business Associate") may create, transmit, maintain, have access to, use, disclose, or receive "Protected Health Information" ("PHI"), including "Electronic Protected Health Information" ("ePHI"), as such terms are defined under the Health Insurance Portability and Accountability Act of 1996, ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act, Public Law 111-005 (HITECH Act"), and the final regulations to such Acts that the U.S. Department of Health and Human Services ("HHS") has promulgated and set forth in 45 CFR Parts 160, 162, and 164 (collectively, the "HIPAA Rules"). Terms used but not otherwise defined in this Agreement shall have the same meaning as given to those terms in the HIPAA Rules. A regulatory reference in this Agreement means the section as in effect or as amended, and for which compliance is required. Unless otherwise specified, the term "Protected Health Information" or "PHI" shall refer tophi, ePHI and "Personal Information." Personal Information ("PI") shall have the meaning set forth in Section 2J. "Discovery" shall mean the first day on which an Incident (as defined herein) is known to Business Associate (including any person that is an employee, officer, or Subcontractor of Business Associate), or should reasonably have been known to Business Associate, to have occurred. Therefore, Business Associate agrees to comply with the following requirements:

A. Permitted Use and Disclosure of PHI. Business Associate shall use and disclose PHI only as permitted by this Agreement, or as required by law, provided that Business Associate shall not use or disclose PHI in any manner that would constitute a violation of the HIPAA Rules if done by Covered Entity. Unless otherwise allowed pursuant to this Agreement, Business Associate is only permitted to:

1. Use or disclose PHI to perform its obligations and functions under this Agreement, including but not limited to performing the following functions for or on behalf of Covered Entity:

   a. Providing new members with member ID numbers and/or ID cards.

   b. Providing new members with the identity of the member's assigned primary care physician and/or medical group assignment.

   c. Communicating with a member regarding whether a particular claim has been paid, provided that Business Associate shall only be permitted to request, and Covered Entity shall only provide, a statement that a claim has or has not been paid and the date of the payment, if any. Business Associate agrees to request confirmation of whether a claim has been paid by providing to Covered Entity only the claim number and no other information. Business Associate acknowledges that Covered Entity will only provide Business Associate with a statement that a claim has or has not been paid and will not disclose any other information to Business Associate regarding the claim or a member, unless otherwise expressly permitted in this Agreement without a written authorization from the member that satisfies any requirements of the HIPAA Rules and/or other applicable law.

2. Use PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities;

3. Disclose PHI for the proper management and administration of Business Associate or to carry out its legal responsibilities, if such disclosure is required by law, or if Business Associate obtains (i) reasonable assurances from the recipient that the recipient will keep the PHI confidential, and will use or further disclose the PHI only as required by law or for the purpose for which it was disclosed to the recipient, and (ii) a written agreement from such third party to immediately notify Business Associate of any instance of which the recipient is aware in which the confidentiality of the PHI has been breached; and

4. Use or disclose PHI to report violations of the law to law enforcement or as otherwise required by law.

B. Safeguards. Business Associate shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that Business Associate creates, receives, maintains, uses, discloses, or transmits on behalf of Covered Entity, as required by the HIPAA Rules. Business Associate shall comply with the requirements in 45 C.F.R. Part 164, subpart C. In addition, Business Associate shall remain familiar with current threats to PHI as they evolve and reasonably and appropriately take steps to mitigate those threats. Business Associate must encrypt PHI using encryption protocols specified by the Secretary of the Department of Health and Human Services that render PHI unusable, unreadable, or indecipherable to unauthorized persons, as may be amended from time to time, which currently includes those standards which are FIPS 140-2 validated (See **http://www.hhs.gov/ocr/privacy/hipaa/administrative/breachnotificationrule/brguidance.html**). Such encryption must be used for all PHI "at rest" (including but not limited to PHI on desktops, laptops, mobile devices, removable media, and servers) as well as all PHI "in transit" (including but not limited to PHI that is included in an email or other transmission).

C. Minimum Necessary. Business Associate, and its agents and Subcontractors, shall request, use and disclose only the minimum necessary amount of PHI necessary to accomplish the purpose of the request, use or disclosure (as described in 45 C.F.R. § 164.502(b) and § 164.514(d)). To the extent practicable, all uses and disclosures must be restricted to information in a Limited Data Set (as described in 45 C.F.R. § 164.514(e)(2)).

D. Agents & Subcontractors. Business Associate agrees to ensure that any agent or Subcontractor to whom it provides PHI agrees in writing to the same restrictions and conditions that apply through this Agreement to Business Associate.

E. Incident Reporting, Mitigation, and Remediation: Business Associate shall immediately report after Discovery of such event by Business Associate or any Subcontractor: (i) any acquisition, access, use or disclosure of PHI not provided for in this Agreement; (ii) any Security Incident involving PHI; (iii) any Breach of Unsecured PHI; and (iv) any loss, destruction, alteration, or other event in which PHI cannot be accounted for (collectively, an "Incident"). Notifications must be sent to privacy@healthnet.com. Business Associate shall implement reasonable systems for the Discovery and prompt reporting of any Incidents and shall train Business Associate personnel regarding the requirements under this Agreement.

1. *Reporting Requirements.* Business Associate shall immediately report the information described below to Covered Entity and in any event no later than within twenty-four (24) hours following Discovery of an Incident, except when despite all reasonable efforts by Business Associate to obtain the information required, circumstances beyond the control of Business Associate necessitate additional time. Under such circumstances, Business Associate shall immediately notify Covered Entity that the Incident has occurred and provide the information required below as soon as possible and without unreasonable delay, but in no event later than five (5) calendar days from the date of Discovery of the Incident. The notice shall be in the form and format requested by Covered Entity and shall include:

   a. the identification of each Individual whose Unsecured PHI has been, or is reasonably believed by Business Associate to have been, accessed, acquired, disclosed, lost, altered, destroyed, or otherwise unaccounted for;

   b. the date of the Incident;

   c. the date of the Discovery of the Incident;

   d. a description of the types of PHI that were involved; and

   e. any other details reasonably requested by Covered Entity.

2. *Risk Assessment.* In the event of an Incident, Business Associate shall assist Covered Entity in performing (or at Covered Entity's direction, perform) a risk assessment to determine if there is a low probability that the PHI has been compromised, consistent with and in coordination with any investigation that Covered Entity undertakes. To enable Covered Entity to make a determination whether or not there is a low probability that PHI has been compromised, Business Associate, and any Subcontractor of Business Associate, shall promptly undertake a risk assessment in coordination with Covered Entity that addresses the following factors and provide the results of such risk assessment to Covered Entity:

   a. The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification;

   b. whether the PHI was actually acquired or viewed;

   c. the unauthorized person who used the PHI or to whom the disclosure was made; and

   d. the extent to which the risk to the PHI has been mitigated.

3. *Breach Determination & Notification.* Covered Entity shall make the ultimate determination, in its sole discretion, whether there has been a Breach and if so, whether the required notifications, including to Individuals, third parties, the media, and regulators (such as the Secretary and state regulators), will be provided by Covered Entity or Business Associate. In the event that Covered Entity requires that Business Associate provide such notifications regarding a Breach, any such notices must be approved, in advance, by Covered Entity. Covered Entity's approval shall also be required for the manner of delivering notice of a Breach.

4. *Record Requirements.* Business Associate shall maintain complete records regarding any Incident for the period required by 45 C.F.R. § 164.530(j) or such longer period Required By Law, and shall make such records available to Covered Entity promptly upon request, but in no event later than within five (5) business days.

5. *Mitigation & Remediation.* Business Associate shall mitigate, to the extent practicable and at its cost, any harmful effects from any Incident (including steps to protect the operating environment). Business Associate also shall take prompt steps designed to prevent the recurrence of any Incident, including any action required by applicable federal and state laws and regulations. All such efforts shall be subject to the Covered Entity's prior written approval. Business Associate must document a corrective action plan, including information on measures that were taken to halt and/or contain the Incident, and provide such documentation to Covered Entity immediately upon request. Business Associate must comply with this provision regardless of any actions taken by Covered Entity.

6. *Ongoing Assistance*: Business Associate shall make itself and any employees, Subcontractors, or agents assisting Business Associate in the performance of its obligations available to Covered Entity at no cost to Covered Entity to testify as witnesses, or otherwise, in the event of an Incident that results in litigation or administrative proceedings against Covered Entity, its directors, officers, agents or employees, or against DHCS, based upon a claimed violation of laws relating to security and privacy or arising out of this Agreement.

F. Access to PHI. To the extent that Business Associate possesses an applicable Designated Record Set, and within a reasonable amount of time (but not to exceed five (5) days) of receipt of a request from Covered Entity to access such PHI, Business Associate shall transmit such information to Covered Entity. If an Individual requests access to PHI directly from Business Associate, Business Associate will forward such a request in writing to Covered Entity within a reasonable amount of time (but not to exceed five (5) days). Covered Entity will be responsible for making all determinations regarding the granting or denial of an Individual's request, and Business Associate shall make no such determinations. If Business Associate maintains PHI in electronic form, Business Associate shall provide such information in electronic format to Covered Entity if requested. If Business Associate maintains an Electronic Health Record with PHI, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. section 17935(e).

G. Amendment of PHI. Business Associate agrees to make any amendment(s) to PHI that Covered Entity directs or agrees to, pursuant to 45 C.F.R. § 164.526, in the time and manner designated by Covered Entity. Within a reasonable amount of time of receipt of a request by an Individual to Business Associate to amend PHI (but not to exceed five (5) days), Business Associate shall forward to Covered Entity any such requests in writing. Covered Entity shall be responsible for making all determinations regarding amendments to PHI, and Business Associate shall make no such determinations.

H. Accounting of Disclosures. Business Associate shall document such disclosures of PHI as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 C.F.R. §164.528. Business Associate agrees to implement a process that allows for an accounting to be collected and maintained by Business Associate and its agents or Subcontractors for six (6) years prior to the request, and to maintain such records for a period of six (6) years to enable compliance with the HIPAA Rules.

1. Within a reasonable amount of time of receipt of a notice from Covered Entity requesting an accounting of PHI disclosures (but not to exceed five (5) days), Business Associate shall provide Covered Entity with records of such disclosures containing information as outlined in 45 C.F.R. §164.528(b).

2. Within a reasonable amount of time of receipt of a request by an Individual to Business Associate for an accounting of disclosures of PHI (but not to exceed five (5) days), Business Associate shall forward to Covered Entity any such requests in writing. Covered Entity shall be responsible for providing an accounting of PHI disclosures to the Individual. Business Associate will not provide an accounting of its disclosures directly to the Individual.

I. Government Access. Upon request, Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI available to Covered Entity and to the Secretary to the extent required for determining Covered Entity's compliance with the HIPAA Rules. Business Associate shall concurrently provide Covered Entity with a copy of any PHI that Business Associate provides pursuant to any governmental inquiry.

J. State Law. Business Associate shall comply with applicable state law confidentiality, privacy, security, document retention, and breach notification requirements involving "Personal Information" or "Personally Identifiable Information" (collectively "PI") as those terms are defined under state law, including but not limited to ARS § 44-7501. For purposes of this Agreement, PI shall refer to any data elements that identify an individual or that could be used to identify an individual, including but not limited to an individual's first name or initial and last name in combination with one or more of the following data elements: social security number; driver's license or state issued identification number; credit or debit card number; medical information (such as an individual's condition, treatment, or payment information); financial information, such as checking account or other account number (either in combination with a required security code, access code, or password that would permit access to the account, or alone if the account does not require such an access code); or other identifying information, such as email addresses and usernames in combination with passwords or security questions, date of birth, mother's maiden name, digital signature, passport number, fingerprint or other biometric data, an insurance policy number, employment information, employment history, an employer, student, tribal, or military identification numbers.

Notwithstanding any provision to the contrary, the provisions of this Agreement shall apply equally with respect to PI as they do to PHI; provided, however, that to the extent that state law is more stringent than the HIPAA Rules or the terms of this Agreement, Business Associate agrees to comply with the requirement that provides more privacy and security protection to PI.

K. Standard Transactions. To the extent Business Associate conducts Standard Transaction(s) on behalf of Covered Entity, Business Associate shall, without limitation, comply 45 C.F.R. Part 162, and shall not: (a) Change the definition, data condition or use of a data element or segment in a standard; (b) Add any data elements or segments to the maximum defined data set; (c) Use any code or data elements that are either marked "not used" in the standard's implementation specification or are not in the standard's implementation specification(s); or (d) Change the meaning or intent of the standard's implementation specifications.

L. Record Retention. Health Net, after providing ten (10) business days' written notice, may inspect the facilities, systems, books, records, agreements, policies and procedures relating to the use or disclosure of PHI pursuant to this Agreement for the purpose of determining whether the Business Associate has complied with this Agreement.

M. Data Ownership. Business Associate acknowledges that Covered Entity is the owner of all PHI.

N. Additional Restrictions. Business Associate must honor all restrictions consistent with 45 C.F.R. §164.522 that the Covered Entity or the Individual makes the Business Associate aware of, including the Individual's right to restrict certain disclosures of PHI to a health plan where the individual pays out of pocket in full for the healthcare item or service, in accordance with the HIPAA Requirements.

O. Term and Termination

1. *Termination for Cause*. If Covered Entity reasonably determines, in its sole discretion, that Business Associate has materially breached this Agreement, Covered Entity may:

   a. Provide Business Associate with thirty (30) days written notice of the alleged material breach and an opportunity to cure the breach, immediately after which time this Agreement shall be automatically terminated if the breach is not cured; or

   b. Immediately terminate this Agreement

2. *Effect of Termination*. Upon termination or expiration of this Agreement, Business Associate shall, at Covered Entity's option, return to Covered Entity or destroy all PHI in Business Associate's possession, and/or in the possession of any Subcontractor or agent of Business Associate. Business Associate shall not retain any copies of the PHI. In the event that return or destruction of the PHI is not feasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction of the PHI not feasible, and Covered Entity and Business Associate shall determine the terms and conditions under which Business Associate may retain the PHI. In such case, Business Associate shall extend the protections of this Agreement to such PHI that is not returned or destroyed, and limit further uses and disclosures of such PHI to those purposes that make the return or destruction not feasible, for as long as Business Associate maintains such PHI. If Covered Entity elects destruction of the PHI, Business Associate shall certify in writing to Covered Entity that such PHI has been destroyed.

P. Miscellaneous.

1. *Amendments*. The Agreement may not be modified, nor shall any provision hereof be waived or amended, except in a writing duly signed by authorized representative of the Parties. The Parties shall amend this Agreement from time to time as is necessary to achieve and maintain compliance with the HIPAA Rules.

2. *Interpretation*. Any ambiguity in this Agreement shall be resolved to permit the Parties to comply with the HIPAA Rules and relevant state laws.

3. *Choice of Law*. This Agreement shall be governed by the laws of the state of California without regard to conflict of laws principles thereof.

4. *Relationship to Agreements with Covered Entity*. In the event that a provision of this Agreement is contrary to a provision of any other agreement between Business Associate and Covered Entity (including any inconsistences in defined or capitalized terms), the most stringent provision shall control. The "most stringent provision" shall mean the provision that provides the greatest privacy and security protection for PHI and that best permits compliance with the HIPAA Rules or other applicable law.

5. *Survival*. Business Associate's obligations under this Agreement with respect to any PHI that Business Associate may maintain subsequent to termination, if otherwise permitted by this Agreement, shall survive the termination of this Agreement.

6. *Waiver*. No delay or omission by Covered Entity in exercising any right or power under this Agreement shall impair such right or power or be construed to be a waiver thereof. Any decision by Covered Entity not to enforce a breach of this Agreement shall not be construed to be a waiver of any succeeding breach thereof.

7. *No Third Party Beneficiaries*. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.

The parties acknowledge that their responsibilities under this Agreement may be affected and governed by the requirements of the HIPAA Rules, to the extent that regulations implementing HIPAA and/or the HITECH Act (the "Regulations") become effective during the Term of this Agreement or any renewal thereof. Both parties agree that, upon the effective date of any such Regulations, this Agreement shall be deemed to incorporate, and impose on the parties, any obligations applicable to each of them under such Regulations, and such Regulations shall be automatically included herein to ensure that this Agreement remains in compliance with any such amendments.

2.6 **Subcontractor Responsibilities**. Subcontractor shall perform all services under its contract with Broker or Broker of Record as such services relate to Broker's or Broker of Record's Agreement with the Plans, in compliance with Brokers or Broker of Records obligations under their Agreement with the Plans., including, but not limited to; (i) compliance with all applicable local, state, and federal laws, regulations, guidelines and directives; (ii) record keeping requirements; and (iii) record access requirements. Furthermore, such requirements shall be specifically set forth in Broker's or Broker of Record's contract with Subcontractor.

2.7 **Census Enrollment.** Broker agrees to the following when sending new Group Employee enrollment membership data via Health Net's standard Census Enrollment spreadsheet:

a. Record Retention. Each Employee Enrollment Form, including the Acceptance of Coverage section, must be executed prior to the delivery of the Census Enrollment file of each member(s)' data to Health Net. These signed Employee Enrollment Forms must be retained by the Broker for verification purposes, in accordance with Section 2.3 of the Agreement. Broker agrees to supply Health Net with a copy of the signed Employee Enrollment Form upon request.

b. Audit Rights. Broker agrees that Health Net reserves the right to conduct periodic audits of the Census Enrollment file against the executed Employee Enrollment Forms, retained by Broker, in accordance with Section 2.3 of the Agreement.

c. Data Transmission. The Census Enrollment spreadsheet must be sent to Health Net Underwriting via encrypted means. The Census Enrollment spreadsheet will be used only to submit new enrollment information.

d. Health Net's Detailed Data Specifications. Broker agrees to use the Health Net Census Enrollment spreadsheet. Broker is responsible for the accurate input of data onto the Census Enrollment spreadsheet tabs from each of the Employee Enrollment Forms.

SECTION 3: SOLICITATION AND ENROLLMENT OF ENROLLING UNITS.

3.1 **Solicitation of Enrolling Units.** Broker shall use its best efforts to solicit enrollment of prospective Enrolling Units under this Agreement.

3.2 **Proposals.** Broker shall submit to prospective Enrolling Units proposal letters in a form and upon such terms as are approved in advance by Plans. No term of such approved proposal, including premium amounts, may be altered except upon the prior written approval of Plans.

3.3 **Application for Enrollment.** Broker shall accurately and completely record information required by Plans for enrollment of Enrolling Units under a Benefit Contract and shall comply with applicable policies and procedures as established by Plans from time to time. In the event Plans determine that an Enrolling Unit was accepted based on Broker's inaccurate and incomplete

recording of required information, and such Enrolling Unit would not otherwise have been accepted by Plans, Broker shall be required to indemnify Plans for the cost of any claims for services made by such Enrolling Unit until such time as Plans are able to rescind or terminate such Enrolling Unit. Plans may offset the amount of any such claims against any compensation or other amounts due to Broker under this Agreement.

3.4 **Acceptance for Enrollment.** Plans shall have the right to accept or reject any prospective Enrolling Unit submitted for enrollment by Broker based on underwriting and enrollment policies established by Plans. In no event shall any prospective Enrolling Unit be eligible to receive health services under a Benefit Contract unless and until accepted in writing by Plans with such effective date as determined by Plans and communicated by Plans to the Enrolling Unit.

3.5 **Servicing of Enrolling Units.** Broker shall be responsible for the delivery and explanation of initial administrative forms, such as billing and enrollment materials, and subsequent renewal forms, as approved in advance by Plans. Broker shall deliver the Benefit Contract with Enrolling Units for signature and return signed forms to Plans. Broker is also responsible for each renewal presentation, as approved in advance by Plans. Broker shall assist Plans in employee meetings held at Employer Groups in which information concerning Benefit Contracts is discussed. Broker shall, with appropriate direction from and involvement of Plans, help maintain effective relations with Enrolling Units and Enrollees on behalf of Plans and support the retention of Enrollees in Benefit Contracts.

3.6 **Marketing Materials.** Broker shall obtain from Plans, upon request by Broker, such marketing and enrollment materials as are necessary for solicitation of enrollment and servicing of Enrolling Units under this Agreement by Broker. Broker shall not broadcast, publish, distribute or otherwise make available any advertisements, marketing materials, trademarks, trade names, or other written, electronic or other forms of information referring to or regarding Benefit Contracts or Plans without the prior written approval of Plans.

3.7 **Use of Information.** Broker shall not use any marketing or enrollment materials, trademarks, trade names, or other written, electronic or other forms of information regarding Plans to the competitive advantage of any competitor of Plans. All such materials provided to Broker shall remain the property of Plans, and shall be accounted for and immediately returned to Plans upon demand.

3.8 **Records.** Broker shall maintain records related to the enrollment of Enrolling Units by Broker, and, Plans shall, upon reasonable notice and demand, have access during regular business hours to any records maintained by Broker relating to this Agreement. In addition, per 45 Code of Federal Regulations section 156.340(4), Broker must permit access by the Secretary of Health & Human Services and Office of Inspector General or their designees in connection with their right to evaluate through audit, inspection, or other means, to the Broker's books, contracts, computers, or other electronic systems, including medical records and documentation, relating to Health Net's obligations in accordance with Federal standards.

SECTION 4: COMPENSATION

Each of the following provisions applies to the compensation due to Broker for services performed under this Agreement:

4.1 Commissions shall be payable to Broker by Plan pursuant to the schedule provided in the attached "Schedule of Commissions," which is hereby incorporated by this reference. Such commissions shall be computed only upon the premiums or payments for each Group Agreement actually paid to, received and accepted by Plan during the term of such Group Agreement. The Plan's records as to the enrollment of employees in the health benefits program of Plan Product will be conclusive in this regard. If any premium earned and paid to Plan shall be adjusted because of retroactive or pro rata payments, the commission paid to Broker shall be likewise adjusted. Commissions for Individual Contracts shall be computed on the same basis and Plan's enrollment records will be conclusive.

4.2 Commissions will only be payable in the event Broker is the Broker of Record on the date such commissions are paid. In the event Broker ceases to be recognized as the Broker of Record, Broker shall be entitled to receive a commission on the premium paid to Plan up to the last day of the month immediately preceding Broker's termination as the Broker of Record.

4.3 In the event that Broker is a newly appointed Broker of Record, commissions will be payable effective the first of the month following Plan's acceptance of the Broker of Record designation.

4.4 In the event of the death of the Broker, and the Broker does business as a sole proprietor, commission payments hereunder shall be payable only through the last day of the month immediately preceding the date of death of the Broker.
4.5 The parties agree that Plan shall have a first lien on all commissions payable hereunder for any debt owed Plan by Broker,

and may at any time deduct from any moneys due Broker under this Agreement or from any source, any debt due at any time from Broker to Plan, or from Broker to other persons acting for Plan.

4.6 Broker is responsible for reviewing commission statements and payments issued by Plans. Broker may dispute commission payment determinations of the Plans upon filing a dispute in writing with Plans within 120 days of receipt of the commission statement and payment that is disputed. Broker forfeits all rights to any compensation if a dispute is not filed within the 120-day period.

4.7 Broker is required to provide Plans with tax information, including tax identification numbers and W-9 forms on request.

4.8 Plan at times may provide, at its sole discretion, special Broker compensation programs. Such programs shall cease immediately upon payment of the special compensation or at Plan's discretion and create no obligation for Plan to provide any same or similar compensation in the future.

4.9 Commissions for Individual Contracts will be payable only for those effective dates during the Annual Open Enrollment period. Any effective dates for Individual Contracts outside of the Annual Open Enrollment period, will not be eligible for commissions.

SECTION 5: TERMS AND CONDITIONS GOVERNING RELATIONSHIP BETWEEN PARTIES.

5.1 **Independent Contractors.** Broker shall remain at all times an independent contractor and not an employee of Plans. None of the provisions of this Agreement are intended to create, nor shall be deemed or construed to create, any other relationship between the parties. No employee of Plans or Broker shall be construed or deemed to be an employee of the other party.

5.2 **Indemnification and Hold Harmless by Broker.** Broker shall defend, hold harmless and indemnify Plans against any and all claims, liabilities, damages, costs or judgments, including reasonable attorney's fees, asserted against, imposed upon and/or incurred by Plans that arise out of the negligence or intentional misconduct of Broker or other persons within Broker's control, in the discharge of his/her or their responsibilities under this Agreement.

5.3 **Indemnification and Hold Harmless by Plans.** Plans shall defend, hold harmless and indemnify Broker against any and all claims, liabilities, damages or judgments, including reasonable attorney's fees, asserted against, imposed upon and/or incurred by Broker that arise out of the negligence or intentional misconduct of Plans or Plans' employees in the discharge of his/her or their responsibilities under this Agreement.

SECTION 6: RESOLUTION OF DISPUTES.

6.1 **Disputes.** For the purposes of this section, "Dispute" means any dispute or claim between Plans and Broker arising out of or related to the interpretation or application of this Agreement or breach thereof.

6.2 **Negotiation and Arbitration of Dispute.** Broker and Plans each agree to arbitrate problems or disputes that may arise under this Agreement. Prior to filing for arbitration, Broker and Plans agree to meet and confer in good faith to resolve any problems or disputes that may arise under this Agreement. Such negotiation shall be a condition precedent to the filing of any arbitration demand by either party, and no arbitration demand may be filed until the exhaustion of Plan's Policies governing informal internal appeal procedures. If the parties are unable to informally resolve the dispute within 30 days, the aggrieved party may send written notice to the other party demanding arbitration under the terms of this Agreement. Such notice shall specifically set forth the precise nature of the dispute. Such arbitration shall be conducted under the rules of commercial arbitration as set forth by the American Arbitration Association. In no event may arbitration be initiated more than one year following the sending of written notice of the dispute. The arbitrator may construe or interpret, but shall not ignore or vary the terms of this Agreement and shall have no authority to award exemplary or punitive damages, and shall be bound by controlling laws. Any arbitration shall be conducted in Tucson, Arizona or in Phoenix, Arizona as the parties may agree. The parties expressly agree to be bound by the decision of the arbitrator(s). The parties further agree that each party shall bear the cost of its own attorney's fees and related expenses and arbitration costs. Fees charged by the arbitrator or the AAA shall be shared equally by the parties.

SECTION 7: TERM AND TERMINATION.

7.l **Term.** The term of this Agreement shall commence on the date first specified above and shall continue in effect through the remainder of the calendar year and for each calendar year thereafter until such time as this Agreement is terminated by either

party as provided for in Section 7.2 hereof.

7.2 **Termination.** This Agreement may be terminated by either party to this Agreement upon sixty (60) days prior written notice to the other party; provided, however, that termination of this Agreement shall be subject to the following provisions:

7.2.1 In the event this Agreement is terminated by Plans, without cause, Plans shall pay Broker Commissions as provided in this Agreement until Broker is no longer Broker of Record with the Enrolling Unit.

7.2.2 In the event this Agreement is terminated by Plans, with cause, the termination date will be immediately effective. No Broker Commissions shall be payable to Broker by Plans following the effective date of such termination. Any Commission due to Broker prior to the date of such termination shall be limited to premiums (or other payment used as a benchmark of a Commission hereunder) which have been received and accepted by Plans before the effective date of termination. Any such Commission shall be paid by Plans within 30 days after the effective date of termination.

7.2.3 The occurrence of any one or more of the following events shall be deemed "with cause" for purposes of determining termination rights under this Agreement: (I) the sale, transfer or assignment of Broker's business or any interest therein or its consolidation with a successor firm;

(ii) the termination, abandonment, bankruptcy, receivership or insolvency of either party's business;
(iii) 90 days after the date on which Broker obtains or renews or is required to obtain or renew necessary licenses if Broker has not provided Plans with proof of such licenses;
(iv) Broker or any of Broker's employees performing services under this Agreement are charged with fraud, embezzlement or other felony; (v) fraud or misrepresentation by Broker in any application, enrollment, eligibility or marketing documents under this Agreement; (vi) the death of Broker if Broker is a sole proprietor; (vii) the loss or material suspension, censure, reprimand or other discipline against any of Broker's licenses required to perform Broker's responsibilities under this Agreement; (viii) failure of Broker to comply with the policies, procedures and directives of Plans or the default by Broker under any material term of this Agreement and failure to satisfactorily cure such failure or default within 15 days after receipt of written notice from Plans specifying the nature of such default.

7.3 In the event this Agreement is terminated by Broker for any reason, no Broker Commissions shall be payable to Broker by Plans following the effective date of such termination. Any Commission due to Broker prior to the date of such termination shall be limited to premiums (or other payment used as a benchmark for payment of a Commission hereunder) which have been actually received and accepted by Plans on the effective date of termination and shall be paid by Plans within 30 days after the effective date of termination.

SECTION 8: MISCELLANEOUS PROVISIONS.

8.1 **Entire Agreement.** This Agreement, including all appendices, constitutes the entire agreement between the parties, superseding all prior agreements, understanding and representations. No alteration of this Agreement or waiver of its provision shall be valid unless approved in writing in advance by Plans.

8.2 **Amendment.** This Agreement and any Schedule of Commissions, attached hereto, may be modified periodically as Plans deems appropriate. If a commission schedule is increased, this change can be done immediately. Any decreases would be effective upon the Group's Employer or the Individual Contract renewal and requires sixty (60) days' notice from the Plans. Acceptance of commissions by Broker after the sixty (60) day notice period shall be deemed acceptance of any modifications.

8.3 **Assignment.** Plans shall have the right to assign any or all of its rights and responsibilities under this Agreement to any entity that controls, is controlled or managed by, or is under common control with HMO or Insurance Plan as appropriate. The rights and obligations of Plans under this Agreement shall apply to each entity covered by this Agreement only with respect to the Benefit Contracts of such entity. No such entity shall be responsible for the obligations of any other entity included as a Plan under this Agreement with respect to the other entity's Benefit Contracts. The person executing this Agreement on behalf of each party has been duly authorized by that party to execute this Agreement on its behalf. Broker shall not have the right to assign any or all of its rights and responsibilities under this Agreement.

8.4 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Arizona unless preempted by Federal law, in which case federal law shall apply.

This entire Agreement has been duly executed as shown on page 1.

Appendix A
Health Net of Arizona, Inc.
Health Net Life Insurance Company

SCHEDULE OF COMMISSIONS

Group Product Commission Rate

Small Group (2-50): (*Commissions will apply for New Sales and upon renewal beginning May1, 2016.)*

Vision, Chiropractic and Alternative Medicine Level 6% First Year and Renewal

Health Product	**1st Year**	**2nd Year**	**3rd Year**	**4th Year**	**5th Year**	**6th Year and Beyond**
Platinum	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
Gold	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
Silver	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%
Bronze (Effective 4/1/2016)	4.50%	4.50%	4.50%	4.50%	4.50%	4.50%

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Life: Level 10%	**Dental:** Level 10%

Large Group (51+ Employees):

Health Product: Level 4% for New Sales effective 1/1/2014, OR as negotiated during quote. Renewals remain at 6% for 51-99 and at 5% for 100+ OR at the current negotiated rate.

Life: Level 10%	**Dental:** Level 10%

Individual Product Commission Rate: *Commission schedule below is calculated on the original premium which shall represent the premium as of the individual plan contract's original effective date for the plan enrolled.*

(Effective January 1, 2014 for new and current business)

Health Product	**1st Year and thereafter**
Platinum, Gold, Silver, Catastrophic Plan Options	4%
Bronze Plan Options	2%

Life:	**Dental (Effective 5/1/2016):**
Level 10%	Level 4%

PPO, POS Plus, Indemnity, Supplement and Life products are underwritten by Health Net Life Insurance Company and administered by Health Net of Arizona, Inc. and subject to this schedule.