

**ADDENDUM  
TO THE BROKER AGREEMENT  
BETWEEN  
COMMON GROUND HEALTHCARE COOPERATIVE  
AND  
BROKER**

This Addendum (“Addendum”) to the Broker Agreement (“Agreement”) by and between [INSERT BROKER LEGAL ENTITY] (“Broker”) and **Common Ground Healthcare Cooperative** (“CGHC”), dated [INSERT DATE OF BROKER AGREEMENT], as subsequently amended, is made effective [INSERT EFFECTIVE DATE OF ADDENDUM].

**WHEREAS**, Broker is appointed and authorized to solicit CGHC products and desires to publicize CGHC product information and rates and make applications available to quote and enroll potential applicants efficiently; and

**WHEREAS**, CGHC has entered into a Broker Agreement with Broker; and

**WHEREAS**, the parties to the Agreement desire to add the terms of this Addendum to the Agreement and have agreed to this Addendum;

**NOW THEREFORE**, the parties set forth the following addendum to the Agreement:

**SECTION 1. BROKER RIGHTS AND OBLIGATIONS.** Broker agrees to the following:

- 1.1. Broker will add CGHC's product portfolio (the "Product Portfolio") to the Broker quoting engine and application/enrollment platform or such other medium agreed to by the Parties (collectively, the "Broker Platform"). CGHC will provide agreed upon rate information, applications, plan and benefit information, product brochures, summaries of benefits and coverage (SBCs), service area information, provider information, prescription drug data, business rules and any information specific to plans in the Product Portfolio.
- 1.2. Broker shall access the information set forth in 1.1 above and provided by CGHC via templates or other file formats agreed upon between the parties (all such templates and files, collectively hereinafter the "Templates"). Broker shall have the Product Portfolio added to the Broker Platform within a reasonable time following CGHC's approval and additions to the Product Portfolio shall be subject to the Parties mutual agreement.
- 1.3. With regard to the CGHC Templates and Information, Broker shall comply with all requirements, guidelines and procedures (collectively referred to herein as “Terms of Use”), including but not limited to presentation of products, listing of benefits, exclusions or limitations, and use of quote disclaimers, established by CGHC and provided either in electronic/online or written format to Broker. Broker will promptly implement, in a manner acceptable to CGHC, any new or additional Terms of Use that Broker receives from CGHC. Broker will be responsible for training Broker’s personnel with regard to such requirements. Where indicated by CGHC, no alternate text or modified wording will be allowed. Broker shall be responsible for and employ best efforts to ensure the rating and benefit information received from CGHC is depicted accurately at all times and used in accordance with Terms of Use. Should CGHC or Broker identify an error or misrepresentation, Broker immediately

shall shut down the affected portion of Broker's Platform and correct such error or misrepresentation.

- 1.4. Broker agrees that it will remove, alter or amend information as provided within a Template, or such other information or materials as may be provided to Broker by CGHC (collectively the "CGHC Templates and Information") in accordance with this Addendum, as soon as feasible but not longer than within five (5) calendar days following written notice from CGHC, including information presented on the Broker Platform. If Broker is unable to make such changes within the five calendar day period, it shall advise CGHC of a reasonable time frame and the Parties shall cooperate to ensure that the changes are made as soon as feasible.
- 1.5. Broker shall test the Broker Platform prior to activation of the Product Portfolio and prior to the implementation of any change to the Broker Platform applicable to the Product Portfolio. Upon request, Broker will supply CGHC with a link for CGHC to use in order to complete its own testing and review prior to go-live.
- 1.6. Broker agrees that CGHC may expand or reduce the number of plans upon at least ten (10) calendar days' written notice to Broker, unless sooner required by applicable law or other regulatory authority. If lead time provided by CGHC is less than ten (10) calendar days, Broker will use reasonable effort to make the required changes in the time requested by CGHC. Broker shall provide notice if change cannot be made in this timeframe and will remove the applicable CGHC products from the Broker Platform until such time that changes are made.
- 1.7. For purposes of sales made on the FFM through the Broker Platform, the sales application will be submitted to CGHC as an 834 transaction directly from the FFM. For purposes of sales made outside of the FFM, such sales will be submitted in the format and manner agreed to by and between the parties.
- 1.8. Broker shall ensure that only its appropriately licensed and appointed agents shall have access to the Product Portfolio on the Broker Platform.
- 1.9. Broker will maintain a record of all sales of CGHC products made through the Broker Platform, which shall be consistent with the records that Broker already provides to CGHC pursuant to its already existing agreements and business relationship. Such record, or specific information derived therefrom, shall be provided to CGHC upon request.
- 1.10. Broker will be responsible for costs incurred for content development, graphic design, HTML coding and link hosting of the Broker Platform. Broker shall, upon reasonable request by CGHC, provide CGHC with reporting of website performance metrics.
- 1.11. Broker will maintain, and satisfy all of its obligations under, a Web-Broker Agreement with the Centers for Medicare & Medicaid Services (CMS), for purposes of accessing the FFM. Broker shall also maintain any and all licenses, registrations, authorizations, certifications and other approvals required for Broker to satisfy its obligations set forth in this Addendum.
- 1.12. Broker will ensure that its actions in fulfilling its obligations under this Addendum will, at all times, be in full compliance with all applicable state and federal laws and regulations or other regulatory guidance, including without limitation those requirements set forth by the FFM. Further, Broker specifically acknowledges that it is Broker's responsibility to know and comply with applicable federal and state laws and regulations relating to the contacting of customers, potential applicants and Agents, including but not limited to Do Not Call, Do

Not Fax, CAN-SPAM, use of an auto dialer and use of prerecorded messages. Broker shall also require its agents to know and comply with such laws and regulations.

- 1.13. Broker will perform random, statistically valid quality assurance audits of Broker's staff to ensure that established processes, procedures, and CGHC's requirements are followed. Broker will allow CGHC, during regular business hours and with reasonable advanced notice, to review/audit Broker's processes specific to CGHC's requirements and other guidelines and procedures.

**SECTION 2. CGHC RIGHTS AND OBLIGATIONS.** CGHC agrees to the following:

- 2.1. CGHC will provide Templates, Terms of Use, requirement specifications, guidelines, procedures and other appropriate information to Broker for purposes of the business development efforts set forth herein. CGHC will notify Broker timely of updates and revisions to such information.
- 2.2. CGHC permits Broker to use CGHC's applicable trademarks, logos and other brand names within the Broker Platform. Upon notification by CGHC, Broker shall submit to CGHC any use of its applicable trademarks, logos and other brand names for prior review and approval. Broker shall not remove any applicable trademark, copyright, proprietary or restricted rights notices on material provided by CGHC that is redistributed or reproduced.
- 2.3. CGHC has the right to reject any content or design that is deemed in-appropriate according to CGHC's business purpose, direction or compliance and legal guidelines. CGHC may require Broker to immediately remove any such content or design from the Broker Platform.
- 2.4. CGHC maintains the right to monitor and audit Broker's performance of services under this Addendum. Specifically, CGHC may:
  - 2.4.1. Conduct monthly audits as needed of Broker's personnel and staff performing the services;
  - 2.4.2. Conduct random audits of the applications received from Broker to determine if each application submitted is in accordance with requirements; and
  - 2.4.3. Conduct audits as needed of Broker's work environment where the transactions are taking place.
- 2.5. In providing the CGHC Templates and Information, CGHC and its personnel shall exercise reasonable care and Broker is entitled to rely upon the knowledge and expertise of CGHC in fulfilling its obligations hereunder. However, CGHC is providing the CGHC Templates and Information "as is" and cannot guarantee or assure the completeness or accuracy of the CGHC Templates and Information nor guarantee or assure any particular outcome for Broker or any other person as a result of this Addendum or the Agreement. CGHC, its officers, directors, employees and outside consultants, if any, will not be liable to Broker (or any parent, subsidiary or affiliate, director or officer thereof) for any loss, financial or otherwise, which may result to Broker (or any parent, subsidiary, affiliate, director or officer thereof) as a result of this Addendum, unless such a loss is the direct result of the gross negligence of CGHC. **CGHC EXPRESSLY DISCLAIMS, AND BROKER HEREBY EXPRESSLY WAIVES, ALL WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

**SECTION 3. PAYMENT TERMS.** The following payment terms shall apply under this Addendum.

- 3.1. No additional consideration shall be due or payable for the services set forth in this Addendum.
- 3.2. Broker acknowledges and agrees that CGHC's participation in this Addendum and the Agreement represents financial value to Broker which is sufficient consideration to support this Addendum.

**SECTION 4. PROPRIETARY INFORMATION.**

- 4.1. For purposes of this Agreement, "Proprietary Information" means all business practices, rating practices, enrollment procedures, products, patents, and records, whether or not designated as confidential, including, but not limited to, the terms of this Addendum, but not including information otherwise in the public domain.
- 4.2. The parties expressly agree that they will keep strictly confidential any Proprietary Information that they learn in the course of their performance hereunder. The receiving party will not, at any time, without the prior written consent of the disclosing party, use Proprietary Information in any fashion, form, or manner, except to fulfill its obligations under this Addendum. Notwithstanding anything to the contrary herein, Proprietary Information may not be sold for the financial gain of the receiving party or be used in any way to the disclosing party's disadvantage or detriment.
- 4.3. Except as expressly provided herein or permitted in this section 4.3, the receiving party shall not disclose, directly or indirectly, to a third party any Proprietary Information. The receiving party may permit its employees, officers, subcontractors, representatives and agents to have access to Proprietary Information to the extent necessary to perform the receiving party's contractual obligations to the disclosing party. Each party shall be entitled to audit the other party's use of, and procedures to protect, Proprietary Information during regular business hours upon reasonable advance notice.
- 4.4. The receiving party may disclose Proprietary Information: (i) as reasonably necessary to its auditors, accountants, counsel, and regulators who are under an obligation to maintain the confidentiality of Proprietary Information, and (ii) to respond to a properly authorized civil, criminal judicial process or regulatory investigation or subpoena or summons issued by a federal, state or local authority having jurisdiction over the receiving party for examination, compliance, or other purposes as authorized by applicable law, however, any such disclosure may be made only after giving the disclosing party prior notice of the potential disclosure as soon as reasonably practical before such disclosure is made so that a protective order or other appropriate remedy may be sought or compliance with the provisions of this Agreement may be waived. If such protective order or other remedy is not obtained or if compliance with any provision of this Agreement is waived, the receiving party will furnish only that part of Proprietary Information that, upon the advice of counsel, is legally required and will exercise its reasonable efforts to obtain reliable assurance that confidential treatment will be accorded such information.
- 4.5. Unless otherwise expressly agreed in writing, the receiving party shall either promptly return to the disclosing party all documents and materials (and all copies thereof) containing any Proprietary Information of the disclosing party or destroy all such items as the disclosing party may direct upon termination or expiration of this Addendum or the Agreement.

## **SECTION 5. OWNERSHIP AND USE.**

- 5.1. CGHC grants Broker a non-exclusive, non-transferable license to (1) use the CGHC Templates and Information solely to market, quote and enroll potential applicants for CGHC, and (2) copy the CGHC Templates and Information for archival or backup purposes only, provided that all titles, trademarks, and copyright, proprietary and restricted rights notices shall be reproduced in all such copies, and that all such copies shall be subject to the terms of this Addendum.
- 5.2. Except as explicitly provided herein, Broker shall not: (1) sell, transfer, publish, disclose, display, distribute or otherwise make available all or part of the CGHC Templates and Information to any third party by assignment, sublicense or by any other means; (2) copy, adapt, reverse engineer, decompile, disassemble, or modify, in whole or in part, any of the CGHC Templates and Information; or (3) use the CGHC Templates and Information to operate in or as an outsourcing or service bureau, or in any way allow third party access.
- 5.3. The names and all related information of customers are the exclusive property of CGHC. Broker only may use information related to customers for the purpose of fulfilling its obligations under this Addendum and the Agreement and may not use, disclose, sell, or distribute such information or any part thereof for any other purpose without the express written permission of CGHC.
- 5.4. The CGHC Templates and Information developed hereunder and all copies thereof are proprietary to CGHC and title thereto remains in CGHC. Broker acknowledges and agrees that the copyright, patent, trade secret, and all other intellectual property rights of whatever nature in the CGHC Templates and Information are and shall remain the property of CGHC, and nothing in this Addendum should be construed as transferring any aspects of such rights to Broker or any third party.
- 5.5. The parties acknowledge that each has developed certain trade secrets, confidential information, knowledge, data, technology, processes, plans and procedures (collectively "Trade Secrets"), and may own or be licensed to use certain symbols, trademarks, service marks and designs (collectively "Trademarks"). Except with the express written consent of the other, neither party shall disclose to third parties or take or use for its own purposes or the purposes of third parties any Trade Secrets obtained from the other by reason of its activities under this Addendum. Neither party shall take, retain or copy any of the other party's publications, materials, documents or other things which are Trade Secrets of the other. Neither party shall use the other's Trademarks, except as expressly contemplated by this Addendum or the Agreement without the prior written consent of the other.
- 5.6. Remedies. The parties agree that breach of the provisions of Sections 4 or 5 would enable the breaching party or a third party to compete unfairly with the non-breaching party, that the nature, amount and extent of the resulting damages would be difficult or impossible to ascertain and that an adequate remedy at law does not exist. For these reasons, the non-breaching party will be entitled to seek injunctive relief, without any showing of irreparable harm and without posting any bond or other security, to prevent a use and/or disclosure of Proprietary Information for purposes or in manners other than those specified in Section 4 or the violation of the Ownership rights set forth in this Section 5. Such injunctive relief will be granted without prejudice to any other remedies available to the non-breaching party in law or in equity. The breaching party will pay the non-breaching party its reasonable attorneys' fees and costs in seeking to enforce the provisions of this section.

## **SECTION 6. PRIVACY AND SECURITY OF INFORMATION.**

- 6.1. Broker shall assist CGHC in meeting any and all standards as may be imposed by state or federal law or regulation around the security and confidentiality of applicant information and Protected Health Information, as defined under HIPAA. This shall include but not be limited to providing and obtaining confidentiality statements from employees, subcontractors and agents, ensuring the security of applicant data to CGHC's satisfaction, implementing adequate technological safeguards to prevent unauthorized access or interception of applicant information, and any other protections as may be required consistent with CGHC's own internal policies and procedures, which shall be furnished to Broker at such time as a change in procedure is requested by CGHC.
- 6.2. Broker shall be bound to strictly adhere to such privacy and security standards, and to ensure that its employees, officers, directors, contractors, subcontractors, agents, and representatives strictly adhere to the same.
- 6.3. Broker shall ensure that descriptions of its privacy and security practices, and information on how to file complaints with CMS and CGHC, are publicly available through its Broker Platform.

## **SECTION 7. INTELLECTUAL PROPERTY INDEMNIFICATION.**

### **7.1. Broker Indemnification.**

- 7.1.1. Broker represents and warrants to CGHC that Broker owns the Broker Platform, including all associated intellectual property rights, and that the quoting engine does not infringe any valid patents, copyrights, trademarks, or other proprietary rights of any third parties.
- 7.1.2. Broker shall defend, indemnify and hold harmless CGHC, its affiliates and their officers, directors, employees and other authorized users from and against any third-party claim, loss, damage or expense (including court costs and attorney's fees) arising out of, or relating to, use of the Broker Platform in compliance with the terms of this Addendum. CGHC agrees to notify Company at such time as it is apprised of any third-party claim and agrees to cooperate in a reasonable manner with Broker with respect to the defense and disposition of such claim.
- 7.1.3. Provided that CGHC incurs no liability or expense thereby, Broker may, at its option, obtain for CGHC the right to continue using the Broker Platform or may replace or modify the Broker Platform with a functionally equivalent replacement so the Broker Platform becomes non-infringing; or terminate this Addendum without cause upon ten (10) days prior written notice to CGHC.

### **7.2. CGHC Indemnification.**

- 7.2.1. CGHC represents and warrants to Broker that CGHC owns or otherwise has the appropriate authorization to use and allow Broker to use the CGHC Templates and Information, including all associated intellectual property rights, and the information and data it provides to Broker and that the CGHC Templates and Information does not infringe any valid patents, copyrights, trademarks, or other proprietary rights of any third parties.

- 7.2.2. CGHC shall defend, indemnify and hold harmless Broker, its affiliates and their officers, directors, employees and other authorized users from and against any third-party claim, loss, damage or expense (including court costs and attorney's fees) arising out of, or relating to, use of the CGHC Templates and Information in compliance with the terms of this Addendum. Broker agrees to notify CGHC at such time as it is apprised of any third-party claim and agrees to cooperate in a reasonable manner with CGHC with respect to the defense and disposition of such claim.

## **SECTION 8. TERM AND TERMINATION.**

- 8.1. Term. Unless terminated earlier in accordance with the provisions below, this Addendum is effective as of the Effective Date and shall continue for one year (“Initial Term”). Thereafter, this Addendum shall automatically renew for additional one (1) year terms (each a “Renewal Term”).
- 8.2. Termination. This Addendum may be terminated:
- 8.2.1. Without cause, by either party, upon providing ninety (90) days prior written notice to the other party;
- 8.2.2. Immediately, by either party, upon the filing by or against the other party in a court of competent jurisdiction a petition for bankruptcy, reorganization, dissolution, liquidation, or receivership. In the event that any of the above events occurs, the affected party shall immediately notify the other party of its occurrence;
- 8.2.3. For cause, as set forth in Section 8.3 below.
- 8.3. Termination for Cause.
- 8.3.1. Broker may terminate this Addendum by providing CGHC with a minimum of thirty (30) days prior written notice in the event CHGC commits a material breach of any provision of this Addendum or the Agreement. Any notice must specify the nature of said material breach. CGHC shall have thirty (30) days from the date of receipt of the foregoing notice to cure said material breach to the reasonable satisfaction of Broker. In the event CGHC fails to cure the material breach within said thirty (30) day period, this Addendum shall automatically terminate upon the expiration of the thirty (30) day notice period.
- 8.3.2. CGHC may terminate this Addendum immediately by providing Broker written notice in the event Broker commits a material breach of any provision of this Addendum or the Agreement.
- 8.4. Duties upon Termination or Expiration. Upon termination or expiration of this Addendum, the parties agree to continue to perform all functions and obligations required by the Agreement as they pertain to written policies. The provisions related to Proprietary Information, Ownership, Privacy and Security and Intellectual Property Indemnification shall survive termination of this Addendum.

**SECTION 9. ASSIGNMENT.** Neither party may transfer or assign this Addendum or its rights or obligations hereunder, except with written consent of the other party.

All other terms and conditions of the Agreement shall remain in full force and effect. In the event of a conflict between the terms of the Agreement and the terms of this Addendum, the terms of this Addendum will control.

IN WITNESS WHEREOF, the parties have executed this Addendum by duly authorized officers of each party.

**Common Ground Healthcare Cooperative**

**[BROKER]**

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

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

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

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

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

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

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

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