

## AGENT MARKETING AGREEMENT

AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 200\_\_ between **Insured Solutions (IS Agency, Inc)** (Agency), having a principle place of business at **1 Glenlake Pkwy Suite 700 Atlanta, GA 30328 and** \_\_\_\_\_ (Broker) having a principle place of business at \_\_\_\_\_.

### *Background*

- A. Agency is in the business of marketing workers' compensation insurance including but not limited to professional employer organizations, administrative service organizations, staffing programs, and other insurance and human resource related services.
- B. Agency names certain Brokers that are authorized to refer business to Agency.
- C. Agency wishes to name Broker as a broker for such purposes, and Broker wishes to serve as a referral broker for Agency.

Now therefore, in consideration of the mutual covenants, conditions and agreements herein contained, and intending to be legally bound hereby, Agency and Broker agree as follows:

### Terms, Conditions and Provisions

- 1. Services to be provided by Broker. Broker shall have the right and privilege, but not the obligation, to refer to Agency individuals and entities that may be interested in utilizing the Agency's services and to provide sales leads to Agency.
- 2. Compensation of Broker. As compensation for the services rendered under this Agreement, Broker shall be entitled to a commission based upon the administrative fee sold to clients, which clients were referred to Agency by Broker as listed in "Exhibit A". Earned commissions shall be payable monthly on the last day of the month following the month in which the commissions have been earned.
- 3. Broker's Expenses. Broker shall be responsible for any and all expenses that Broker may incur in connection with the services that Broker provides under this Agreement.
- 4. Independent Contractor Relationship. The relationship between Agency and Broker is and shall be that of independent contractors. Broker is not and shall not be Agency employee, agent, partner or joint venture. Broker shall not have the power to act for or bind the Agency in any manner. Broker understands and agrees that there is no participation in any plans, arrangements, or distributions pertaining to or connected with any pension or other deferred compensation plan, health, life, or disability in insurance programs or any other fringe benefits that Agency provides for its employees.

Broker agrees to hold Agency harmless from and against any tax liability incurred by Broker arising out of and /or resulting from this Agreement. Agency agrees to furnish Broker Federal 1099 form for tax filing purposes annually.

- 5. Confidentiality and Non-Disclosure Agreement. The parties understand that the Agency may disclose to Broker certain Confidential Information that is and/or is deemed to be confidential and the property of Agency. In order to induce Agency to disclose such Confidential Information, Broker agrees to protect the confidentiality of all Confidential Information disclosed to Broker in accordance with the following terms and conditions:

Broker acknowledges and agrees that in the course of communications between Agency and Broker with respect to the referral of potential clients by Broker to Agency, the negotiation of client contracts between Agency and its potential clients and clients, or the servicing of clients, Broker may become privy to Confidential Information of Agency which has been obtained and developed by Agency by the expenditure of substantial time, effort and funds; and that the disclosure or use of such Confidential Information would injure Agency.

Broker agrees not to use for itself or others any Confidential Information, including client list, about Agency or its business without the prior written consent of Agency.

All communications by Agency to Broker of Confidential Information of the Agency are for the purpose of the Agency and such Confidential Information shall remain the property of the Agency.

For the purposes of the Agreement, "Confidential Information" shall mean trade secrets (as defined by the Georgia Trade Secrets Act), as well as any information in the possession of Agency, whether created by Agency or the Broker, which is kept or intended to be kept as a secret from others, whether or not the secret or confidential information provides a measurable commercial benefit to Agency, such as Agency's development work, its software and computer programs, specifics concerning the design of its equipment or software and computer programs, whether used internally or not, procedures used to render programs, equipment or services fit for sale, Agency's underlying costs and Agency's underlying sources of supply and vendors, and information which concerns the business of Agency and the manner in which Agency conducts its business, its future plans, work in progress, customers, customer lists, and any other information relating to research, development, inventions, manufacture, purchasing, accounting, engineering, marketing, merchandising, and selling which is used by Agency in the conduct of its business and which is not generally known to others.

6. Effect of Termination on Compensation. Agency agrees to continue to pay Broker fees, commission and compensation on all accounts written by Broker even after the termination of this Agreement unless section 18 of this agreement is violated. The right to residuals on such accounts belongs to the Broker as long as clients that Broker introduced continue as clients of Agency and vendor(s) as stated in "Exhibit A".
7. Binding Effect. This Agreement will bind and insure to the benefit of the parties hereto, and their respective heirs, personal representatives, successors and assigns. Broker shall have the right to assign this Agreement by giving Agency the "first right of refusal" prior to the assignment of this agreement. The Agency has the right to terminate all future marketing activity of heirs, personal representatives, successors and assigns within the provisions of this agreement. It is understood that assigns will have to sign a new agreement with Agency to market any product offered through Agency.
8. Entire Agreement. This agreement supersedes any and all other agreements, either oral or written, between the parties and contains all of the covenants and agreements between the parties with respect to the subject matter hereof. This Agreement may not be modified or amended other than by and agreement in writing.
9. Law Governing Agreement. This Agreement shall be governed by and construed in accordance with the laws of the state of Georgia, without regard to its choice of law rules.
10. Hold Harmless. Broker and Agency mutually agree to hold each other harmless and waive all rights of subrogation. This mutual waiver of subrogation and hold harmless agreement between Agency and Broker include but are not limited to costs of defense, settlements imposed by law, agreements to pay claims, awards, trials, depositions, discovery, out of court agreements, arbitration awards, mediation, torts, Alternative Dispute Resolution (ADR) costs, contract claims, federal, state, local law, administrative rulings, regulations opinions, damages, treble damages, punitive damages, exemplary damages and/or any RICO awards imposed arising out of or resulting from any errors and omissions by either party to this Agreement.

11. Broker Client Referral. The Broker will be named the first broker of record for any client in which the Agency receives written "Request for Proposal" documentation from Broker if Agency has not had previous contact with prospective client within the previous twelve (12) months.
12. Termination of Agreement. Either party may terminate this agreement with thirty (30) days prior written notice. Upon receipt of notice of termination, Broker shall terminate all solicitations on behalf of Agency.
13. Notices. All notices required hereunder shall be given in writing, addressed and delivered to the party affected, by mailing said notice to that party at the address hereinabove set forth, or at the last address of which the other was given notice, by certified mail, return receipt requested, and shall be deemed to have been given five (5) days following the date upon which such notice is placed in a depository of the United States Postal Service. Notices may be hand delivered to either party, and shall be effective when actually received.
14. Compliance: Agency and Broker mutually agree they shall comply with all statutes, rules, regulations and/or administrative rulings effecting their respective operations.
15. Mutual Cooperation: Agency and Broker mutually agree to cooperate fully in the appropriate use of their respective trademarks, patents, copyrights, trade dress and/or any other related protected trade and/or proprietary intellectual property and/or business reputation. Each party has the sole discretionary right to refuse permission of the other party for any use that the objecting party believes unilaterally is inappropriate and the other party is bound to comply with the objecting party's request.
16. Arbitration: Agency and Broker mutually agree that unresolved disputes shall be resolved by binding arbitration. Should the parties have such a dispute then either party may make a written demand on the other party for compulsory binding arbitration. When this demand is made each party will select one arbitrator to represent them within thirty (30) calendar days. These two arbitrators will select a third arbitrator within the next thirty (30) calendar days. If they fail to agree on a third arbitrator within this period of time then either arbitrator or both acting together, shall request that a judge of a court of competent jurisdiction make the selection. Each party agrees to pay the costs of their respective arbitrator and pay one half each of the third arbitrator's cost. The arbitrators do reserve the right to assess all costs to Agency or Broker if the dispute is deemed by them to lack reasonable justification. Arbitration shall take place in Atlanta, Georgia unless the parties mutually agree otherwise in writing Georgia rules of law, procedure and evidence will apply. A decision rendered by two or more of the arbitrators shall be binding on both parties.
17. ANTI-PIRACY: The broker will not, for a term of two (2) years after termination of this Agreement or at anytime during this agreement pirate, circumvent, solicit, or otherwise encourage or advise in any way; insurance carrier, employee, account representative, vendor, PEO provider, agent, broker, or other business relation introduced to broker by agency to leave or otherwise change or end such party's relationship with agency or all commission payments will cease immediately.

In witness whereof, the parties hereto have executed this Agreement the date first above written.

**Agency Name:** Insured Solutions (IS Agency, Inc.)

**Broker's Name:** \_\_\_\_\_

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

by: \_\_\_\_\_

### **Exhibit A**

A total commission is expressed as a percentage of the insurance premium:

**Insurance Carrier/PEO/ASO/Staffing Commission Amount.** In consideration of Broker's securing executed insurance policies and client contracts, Agency agrees to pay **a pre-negotiated %** of the earned insurance premium actually received by Agency insurance carriers or vendors for each client referred to Agency during the term of this agreement.

**Administrative Fee.** As used herein, the "Administrative Fee" shall mean the service fee charged by Agency vendors to the client, excluding payroll taxes, workers' compensation costs, employee benefit costs, service burden fees, enrollment costs, 401 (k) employer contributions and administrative expenses and shipping costs.

Calculation of commission. The commission will be calculated in accordance with the Agency's policies and agreed upon by Broker in advance of all client presentations.

Vesting. The Agency agrees to pay Broker the above stated commission amount at a level rate for as long as the client remains a client of the Agency and its vendor(s) and payment is received from vendor(s) to Agency.

**Agency Initials** \_\_\_\_\_

**Broker Initials** \_\_\_\_\_