

**Commercial
Producer
Appointment
for**

UPMC HEALTH PLAN

**PRODUCER AGREEMENT SIGNATURE PAGE
COMMERCIAL PLAN**

IN WITNESS WHEREOF, UPMC HEALTH PLAN, INC., and UPMC HEALTH NETWORK, INC. (collectively "UPMC HP"), and Producer, in consideration of Producer's undertaking to sell UPMC HP's Products and provide services for the consideration as stated in this Agreement, the Attachments hereto, and this signature page made a part thereof, mutually agree to the terms of this Agreement and that the same shall constitute the entire Agreement between UPMC HP and the Producer. This Agreement shall supersede any and all Agreements previously entered into between the parties.

This Agreement shall have no force or effect unless countersigned by all below identified parties and a fully executed copy returned to UPMC HP.

UPMC HEALTH PLAN, INC.

By: _____

Print Name: _____

Print Title: _____

UPMC HEALTH NETWORK, INC.

By: _____

Print Name: _____

Print Title: _____

I hereby certify that this Agreement, which I have signed, and all forms submitted herewith, have not been altered, modified, or changed by me in any manner, that the information contained therein remains current and valid, and that I agree to be bound by the provisions of the Agreement. I understand that UPMC HP will accept business from me upon completion, execution, and acceptance of the Producer Appointment Form, Service Producer Evaluation form, Sales Producer Profile form and ACH Credits form, a copy of my current life and health license, a copy of my E&O coverage, and a fully executed copy of this Agreement.

GENERAL AGENT/PRODUCER/SUB-PRODUCER

By: _____ ADDRESS: _____

Print Name: _____

Print Title: _____

To the extent that this Agreement pertains to a Sub-Producer, the below designated General Agent accepts all responsibility for the above listed Sub-Producer and sponsors Sub-Producers as a Producer/Writing Agent for UPMC HP.

GENERAL AGENT

By: _____
Signature Required

Address: ARMS Insurance Group, Inc
3000 Lento Boulevard
Bethel Park, PA 15102

Print Name: Robert J. Rionda Jr
Print Title: President

Internal Use Only: Accepted: _____ Producer Number: _____ Signature: _____

PRODUCER APPOINTMENT FORM

Producer/Agency Name: _____
Address: _____
Phone Number: _____
Contact Name: _____
PA Insurance License Number: _____
States currently licensed in: _____
How long have you been a producer? _____
Have you or your agency ever been a UPMC Health Plan Producer before? If so, when? _____
If you or your agency were previously with UPMC Health Plan, provide the producer number you had with UPMC Health Plan. _____

Number of Groups in Force: _____

Number of Contracts: _____

Number of Members: _____

Your Agency's Total Book of Business: _____

- Do you sell individual products? Yes or No
- Number of individual contracts in force:

- Carriers currently marketing with (names):

- Would you consider your agency to be primarily a small market agency or all market sizes?

- What are your agency's production expectations with UPMC Health Plan over the next calendar year?

- Other lines of business your agency markets:

- If with agency fewer than 3 years, please give prior agency information.

General Information

Please respond to all questions for you personally and any organization over which you have exercised control. If you answer "yes" to any questions other than the first one, you must attach an additional sheet explaining all relevant information and include supporting documents.

1. Do you have Errors and Omissions (E&O) coverage?
 Yes No
 (If no, do not submit application for contract. If yes, submit proof of current coverage.)
2. Within the past 10 years, has any E&O carrier denied, paid claims on, or canceled your coverage?
 Yes No
3. Are you involved in any pending or current litigation, investigations, or E&O claims?
 Yes No
4. Within the past 10 years, has a bonding or surety company denied, paid out on, or revoked a bond for you?
 Yes No
5. Is there any reason why you cannot secure a bond?
 Yes No

6. With the exception of routine traffic violations, have you **EVER** been convicted of, or plead guilty or nolo contendere (no contest) in a court to:
- a. A misdemeanor
 Yes No

 - b. A felony
 Yes No

(Such convictions will not automatically disqualify agent candidates. The seriousness and nature of the crime, date of conviction, and rehabilitation will be considered.)

7. Do you have any outstanding unpaid indebtedness to an insurance company or general agent?
 Yes No
8. Have you **EVER** had your insurance license suspended, revoked, or terminated?
 Yes No
9. Have you **EVER** had a securities license or registration suspended or revoked?
 Yes No
10. Within the past 10 years, have you ever had a complaint filed against you that resulted in a fine, penalty, cease or desist order, or censure of consent order?
 Yes No
11. Are there any outstanding or pending judgments, liens, or tax liens against you?
 Yes No
12. Have you ever defaulted on a (a) promissory note or (b) any other debt, including consumer or credit card debt?
 Yes No
13. Within the past 5 years, have you ever initiated bankruptcy proceedings or been declared bankrupt?
 Yes No

I agree that the responses are accurate to the best of my knowledge.

Signature: _____ Phone Number: _____

INTERNAL USE ONLY Accepted: _____ Producer Number: _____ IKA: _____
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SALES PRODUCER PROFILE

1. NAME OF PRODUCER: _____
2. NAME OF AGENT (if applicable): _____
3. PRIMARY CONTACT: _____ TITLE: _____
4. PRINCIPAL ADDRESS:
Street: _____
City: _____ State: _____ ZIP Code: _____
5. MAILING ADDRESS (if different from above):
Street: _____
City: _____ State: _____ ZIP Code: _____
6. TELEPHONE: _____ FAX: _____ E-MAIL: _____
7. Corporation LLC Partnership Individual
8. FEDERAL IDENTIFICATION NUMBER/IF PRODUCER/SSN#: _____

BACKGROUND

1. If agency, agency name:

2. Year agency was established/joined:

3. Is agency engaged in, owned by, associated or affiliated with, or controlled by any other business interest? If yes, please describe:

AGENCY OPERATIONS

1. Does your Agency write business outside your state of domicile? **If yes, please explain.**

2. Do you sell group and/or individual? _____

PRODUCER OWNERSHIP AND PERSONNEL

Please provide copies of the agency license and licenses for all staff — including Social Security numbers. Make additional copies if needed.

Name/ Address	Title	Group/ Individual	PA License/ Social Security Number	E-mail Address

PRODUCER CARRIER AND LOSS INFORMATION

ERRORS AND OMISSIONS INSURANCE INFORMATION

Please provide a copy of your current Errors and Omissions Declaration Page.

1. Errors and Omissions (E&O) Insurance Company:

Limits of Liability: _____

Deductible: _____

Expiration Date: _____

2. Has anyone filed an E&O claim against you in the past 3 years?

Yes No

If yes, please explain:

SERVICE PRODUCER EVALUATION

Service Producer/Company Name: _____

Address: _____

Expected Start Date: _____

Total Costs of Services: _____

Description of Services: _____

Tax Identification number/Social Security number used by Service Producer: _____

Please circle correct answer:

1. The Service Producer has performed services for how many customers, other than UPMC Health Plan, in the past six (6) months?
 - a. No other customers
 - b. 1-3 other customers
 - c. More than 3 customers

2. Who determines the Service Producer's work schedule when performing the services for UPMC Health Plan?
 - a. UPMC Health Plan determines the hours worked by the Service Producers.
 - b. The Service Producer determines the hours.
 - c. Both UPMC Health Plan and the Service Producer must agree to the schedule.
3. How many other people has the Service Producer employed as part of their business in the past six (6) months?
 - a. 0
 - b. 1-2
 - c. 3+
4. Who decides where the services will be provided?
 - a. UPMC Health Plan determines the location of the work.
 - b. The Service Producer determines where the work is performed.
 - c. Both UPMC Health Plan and the Service Producer must agree to work location.
5. How will the Service Producer be paid?
 - a. Hourly/monthly for all hours
 - b. Periodic payments with final payment at the end of the project
 - c. Payment at the end of the project
6. How long will the services be provided?
 - a. 1-30 days
 - b. 30-90 days
 - c. More than 90 days
7. How much training does the Service Producer require to perform the work for UPMC Health Plan?
 - a. None
 - b. 1-2 days
 - c. 3 or more days
8. Will the Service Producer supervise UPMC Health Plan employees or have input into the hiring of UPMC Health Plan employees?
 - a. Will not supervise any UPMC Health Plan employees
 - b. Will occasionally coordinate the work of UPMC Health Plan employees
 - c. Will supervise one or more UPMC Health Plan employees

9. Who provides tools, equipment, and materials to perform the services?
- a. Service Producer
 - b. UPMC Health Plan
 - c. Both UPMC Health Plan and Service Producer
 - d. Not applicable
10. Which best describes the level of direction that will be given to the Service Producer?
- a. No instruction: Service Producer is free from direction and control over the way to complete services.
 - b. Specifications only. No instruction: Service Producer is given specification regarding end result and expectations of services, but no direction or control is provided concerning method or process of work needed to complete services.
 - c. Detailed instruction and specification: Service Producer is given specification regarding end result and specifications of service in addition to being provided with instructions and directions pertaining to how the work is to be done.
11. Has the Service Producer ever been an employee of UPMC Health Plan?
- a. Has never been an employee of UPMC Health Plan
 - b. Currently is an employee of UPMC Health Plan
 - c. Has been an employee of UPMC Health Plan in the past 6 months
 - d. Has been an employee of UPMC Health Plan more than 6 months ago but less than a year

UPMC HEALTH PLAN

AUTHORIZATION AGREEMENT FOR DIRECT DEPOSIT (ACH CREDITS)

Company/Producer Name: _____

Federal Tax/Social Security Number: _____

I (we) hereby authorize UPMC Health Plan, herein called COMPANY, to initiate credit entries to my (our) ___ Checking Account/ ___ Savings Account (select one) indicated below at the depository financial institution named below, hereafter called DEPOSITORY, and to credit the same to such account, I (we) acknowledge that the origination of ACH transactions to my (our) account must comply with the provisions of the U.S. law.

Depository Name: _____ Branch: _____

City: _____ State: _____ ZIP Code: _____

Routing Number: _____ Account Number: _____

This authorization is to remain in full force and effect until COMPANY has received written notification from me (or either of us) of its termination in such time and in such manner as to afford COMPANY and DEPOSITORY a reasonable opportunity to act on it.

Name(s): _____ ID Number/SSN: _____
(Please print.)

Date: _____ Signature: _____

Request for Taxpayer Identification Number and Certification

**Give Form to the
 requester. Do not
 send to the IRS.**

Print or type See Specific Instructions on page 2.	Name (as shown on your income tax return)	
	Business name/disregarded entity name, if different from above	
	Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Other (see instructions) ▶ _____	
	<input type="checkbox"/> Exempt payee	
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
City, state, and ZIP code		
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on the "Name" line to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

	Social security number [][][] - [][] - [][][][][]
	Employer identification number [][] - [][][][][][][][]

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
- I am a U.S. citizen or other U.S. person (defined below).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 4.

Sign Here	Signature of U.S. person ▶	Date ▶
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

Definition of a U.S. person. For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,
- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien. Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS a percentage of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 3 for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules for partnerships* on page 1.

Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name/disregarded entity name" line.

Partnership, C Corporation, or S Corporation. Enter the entity's name on the "Name" line and any business, trade, or "doing business as (DBA) name" on the "Business name/disregarded entity name" line.

Disregarded entity. Enter the owner's name on the "Name" line. The name of the entity entered on the "Name" line should never be a disregarded entity. The name on the "Name" line must be the name shown on the income tax return on which the income will be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a domestic owner, the domestic owner's name is required to be provided on the "Name" line. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on the "Business name/disregarded entity name" line. If the owner of the disregarded entity is a foreign person, you must complete an appropriate Form W-8.

Note. Check the appropriate box for the federal tax classification of the person whose name is entered on the "Name" line (Individual/sole proprietor, Partnership, C Corporation, S Corporation, Trust/estate).

Limited Liability Company (LLC). If the person identified on the "Name" line is an LLC, check the "Limited liability company" box only and enter the appropriate code for the tax classification in the space provided. If you are an LLC that is treated as a partnership for federal tax purposes, enter "P" for partnership. If you are an LLC that has filed a Form 8832 or a Form 2553 to be taxed as a corporation, enter "C" for C corporation or "S" for S corporation. If you are an LLC that is disregarded as an entity separate from its owner under Regulation section 301.7701-3 (except for employment and excise tax), do not check the LLC box unless the owner of the LLC (required to be identified on the "Name" line) is another LLC that is not disregarded for federal tax purposes. If the LLC is disregarded as an entity separate from its owner, enter the appropriate tax classification of the owner identified on the "Name" line.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name/disregarded entity name" line.

Exempt Payee

If you are exempt from backup withholding, enter your name as described above and check the appropriate box for your status, then check the "Exempt payee" box in the line following the "Business name/disregarded entity name," sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

The following payees are exempt from backup withholding:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt payees except for 9
Broker transactions	Exempt payees 1 through 5 and 7 through 13. Also, C corporations.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt payees 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney, and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-member LLC that is disregarded as an entity separate from its owner (see *Limited Liability Company (LLC)* on page 2), enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.ssa.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer Identification Number (EIN) under Starting a Business. You can get Forms W-7 and SS-4 from the IRS by visiting IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, below, and items 4 and 5 on page 4 indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on the "Name" line must sign. Exempt payees, see *Exempt Payee* on page 3.

Signature requirements. Complete the certification as indicated in items 1 through 3, below, and items 4 and 5 on page 4.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or disregarded entity owned by an individual	The owner ³
6. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulation section 1.671-4(b)(2)(i)(A))	The grantor*
For this type of account:	Give name and EIN of:
7. Disregarded entity not owned by an individual	The owner
8. A valid trust, estate, or pension trust	Legal entity ⁴
9. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
10. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
11. Partnership or multi-member LLC	The partnership
12. A broker or registered nominee	The broker or nominee
13. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
14. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulation section 1.671-4(b)(2)(i)(B))	The trust

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

⁴ List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships* on page 1.

*Note. Grantor also must provide a Form W-9 to trustee of trust.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Secure Your Tax Records from Identity Theft

Identity theft occurs when someone uses your personal information such as your name, social security number (SSN), or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Publication 4535, Identity Theft Prevention and Victim Assistance.

Victims of identity theft who are experiencing economic harm or a system problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to phishing@irs.gov. You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at: spam@uce.gov or contact them at www.ftc.gov/idtheft or 1-877-IDTHEFT (1-877-438-4338).

Visit IRS.gov to learn more about identity theft and how to reduce your risk.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

PRODUCER AGREEMENT

THIS AGREEMENT is made as of the 1st day of December 2011 (“Effective Date”), by and among UPMC HEALTH PLAN, INC., and UPMC HEALTH NETWORK, INC. (collectively “UPMC HP”), Pennsylvania corporations, and the GENERAL AGENT/PRODUCER/SUB-PRODUCER (the “Producer”) (collectively the “Parties”) identified on the signature page hereto and supersedes any and all prior Agreement(s) between the Parties except as set forth herein.

WHEREAS, UPMC HP offers a variety of health care benefit plan products to individuals through employers, associations, unions, and other organizations (hereinafter collectively “Groups” and individually a “Group”);

WHEREAS, Producer is licensed under the Commonwealth of Pennsylvania’s insurance laws as required to perform under this Agreement; and

WHEREAS, Producer desires to solicit, and UPMC HP desires that Producer solicit, applications from Groups to enroll in the UPMC HP health care benefit plan products designated below (hereinafter referred to as “Services”).

NOW, THEREFORE, in consideration of the covenants and mutual promises set forth herein, and intending to be legally bound hereby, UPMC HP and Producer agree as follows:

1. **Definitions.**

- 1.1 **Contract.** Enrollment of a subscriber in a Group in a UPMC HP benefit plan.
- 1.2 **General Agent.** A Producer utilizing non-employee Sub-Producers, appointed and contracted with UPMC HP, to provide Services, including solicitation of enrollment in UPMC HP health care benefit plan products. A General Agent is a Producer who generally is a wholesaler and drives business through their Sub-Producer network.
- 1.3 **Producer.** A licensed individual or agency appointed and contracted with UPMC HP to provide Services, including solicitation of enrollment in UPMC HP health care benefit plan products.
- 1.4 **Gold Producer.** A Producer who is the Broker of Record for Groups whose collective Contracts as of December 31 of the prior year total 1000 or more Contracts and who brings in a minimum of 25 new Groups or 150 Contracts between January 1 and December 31 of the current year.
- 1.5 **Silver Producer.** A Producer who is the Broker of Record for Groups whose collective Contracts as of December 31 of the prior year total between 500 and 999 Contracts and who brings in a minimum of 20 new Groups or 100 Contracts between January 1 and December 31 of the current year.

- 1.6 **Bronze Producer.** A Producer who is the Broker of Record for Groups whose collective Contracts as of December 31 of the prior year total between 300 and 499 Contracts and who brings in a minimum of 10 new Groups or 75 Contracts between January 1 and December 31 of the current year.
 - 1.7 **Standard Producer.** A Producer who is the Broker of Record for Groups whose collective Contracts as of December 31 of the prior year total fewer than 300 Contracts and who brings in a minimum of 5 new Groups or 30 contracts between January 1 and December 31 of the current year or who has been expressly granted such status by UPMC HP. Where the maximum number of potential Contracts per Group does not exceed fifty (50) Contracts, Standard Producer must solicit enrollment for that Group through a contracted and appointed General Agent.
 - 1.8 **Sub-Producer.** A Producer, appointed and contracted with UPMC HP, to provide Services, including solicitation of enrollment in UPMC HP health care benefit plan products through a General Agent.
2. **Authorizations.**
- 2.1 **Authorizations by UPMC HP.** UPMC HP hereby authorizes and engages Producer's Services under the terms and conditions set forth herein for the health benefit plan products (hereinafter "Products") offered by UPMC HP.
 - 2.2 **Authorizations by Producer.** Producer hereby authorizes UPMC HP to conduct an investigation relating to Producer's background and qualifications. Such investigations may be performed in the sole discretion of UPMC HP. Producer understands that such investigation may include, but may not be limited to, contacting Producer's employer, verifying residence, and reviewing criminal, education, and state insurance records.
3. **Designation of Sub-Producers.** Producer may enter into agreements with Sub-Producers to represent Producer in soliciting applications for the Products covered by this Agreement. Where any provision of the agreement between Producer and Sub-Producer conflicts with this Agreement, this Agreement shall supersede and prevail. Producer shall disclose, in writing, to UPMC HP the names, business addresses, and Commonwealth of Pennsylvania Producers' license numbers for all such Sub-Producers whom Producer has investigated and deemed appropriate to represent UPMC HP. All Sub-Producers must be appointed as Producers with the Pennsylvania Insurance Department and shall individually enter into a Producer Agreement with UPMC HP thereby being bound by the terms and conditions thereof. UPMC HP specifically reserves the right to approve or disapprove the appointment of any Sub-Producer who will offer Services and solicit applications for and enrollment in Products covered by this Agreement.

4. **Commission, Bonus, and Reward Payment.**

- 4.1 **Commission Paid to Producer.** In order to maintain Producer status with UPMC HP and be eligible for commission payments, minimum production requirements for new business are indicated in Sections 1.4 through 1.7 above, which may be revised from time to time. Subject to the conditions set forth in Sections 1.4 through 1.7 and 4.4 of this Agreement, UPMC HP agrees to pay Producer a commission for each Contract that results from new Group enrollment and for each Contract that results from Group renewal. Producer is entitled to a commission of at least \$16.00 per Contract per month (PCPM). Certain qualified Producers may be entitled to commission payments in excess of \$16.00 PCPM, at UPMC HP's discretion and as set forth in UPMC HP's Commission Program. Except that Sub-Producers are not eligible for commission payments from UPMC HP under this Agreement.
- 4.2 **Bonuses.** Subject to the conditions set forth in Section 4.4 of this Agreement, Producer may be entitled to earn bonuses, in accordance with the terms of this Agreement. Certain qualified Producers may be entitled to Net Growth, Retention, and Volume Bonus payments, at UPMC HP's discretion and as set forth in UPMC HP's Producer Bonus Program. Bonus programs offered by UPMC HP may be terminated by UPMC HP at any time in UPMC HP's sole discretion. Except that Sub-Producers are not eligible for bonus payments from UPMC HP under this Agreement.
- 4.3 **Rewards.** During the term of this Agreement, UPMC HP may offer certain reward programs to Producer. Eligible Producer will be notified of the reward program and automatically enrolled in such reward program. Eligibility to participate in a reward program will be determined by the Producer's status on the date that the reward program commences as described by the rules, prevalence benchmarks of off-cycle Contract terminations ascribed to Producer, and other criteria of the reward program itself. Subject to the conditions set forth in Section 4.4 of this Agreement and Producer's satisfaction of the criteria set forth in the reward program, Producer may be entitled to earn a reward. Reward Programs may result in payment of rewards directly to writing Producers. Reward Programs offered by UPMC HP may be terminated by UPMC HP at any time in UPMC HP's sole discretion.
- 4.4 **Conditions to Payment of Commission, Bonus, or Reward.** Such commission, bonus, and/or reward payments will be paid to Producer only so long as Producer: (i) is a party to a duly executed Producer Agreement between Producer and UPMC HP, a copy of which has been provided to UPMC HP; (ii) has submitted to UPMC HP Producer's Producer Profile form, including Producer's and all Sub-Producers' information, if applicable; (iii) provides UPMC HP with a copy of a valid and current Commonwealth of Pennsylvania Producer or General Agent license; (iv) provides UPMC HP with a copy of Producer's and, if applicable, Sub-Producers' certificate(s) of E&O coverage of a minimum of \$1 million for each claim and \$1 million claims aggregate for each policy period; (v) is continuously and actively engaged as a licensed Producer; (vi) is the Broker of Record for renewing Group(s); and (vii) provides UPMC HP, at the time of new Group enrollment and at the time of transfer of Producer to Producer, with a Broker of Record or Transfer of Business letter. For purposes of this Agreement, the Producer shall only be considered the "Broker of Record" for Groups from which UPMC HP has received a Broker of Record or Transfer of Business letter that meets all the requirements set forth in Section 5.9

of this Agreement. All Commissions, Retention Target Bonuses, Volume Bonuses, Net Growth Bonuses, and Reward payments are contingent upon Contracts for which payment is made by remitting monthly premium payments to UPMC HP for benefit coverage.

- 4.5 **Producer Responsible for Payment of Sub-Producers.** A General Agent utilizing Sub-Producers in fulfilling its obligations under this Agreement must pay Sub-Producers a commission equivalent to or greater than \$16.00 per Contract per month (PCPM); UPMC HP shall have no duty to compensate such Sub-Producers. For Groups with 100 or more Contracts the amount paid to Sub-Producers shall be as agreed between the General Agent and the Sub-Producer.
- 4.6 **UPMC HP Reserves Right to Change Commission, Bonus, and/or Reward Policies.** UPMC HP reserves the right to change its commission, bonus, and/or reward policies upon thirty (30) days advance written notice to Producer.
- 4.7 **No Right to Commission After Termination of Agreement.** Agent shall not be eligible to receive commission, bonus, or reward Payments in accordance with the terms of this Agreement, as set forth in Section 4.3, effective as of the date of termination of this Agreement.
- 4.8 **No Commission After Death, Insolvency, or Bankruptcy.** No commission shall be payable after: (1) the death of an individual Producer or Producer who owns or is employed by Producer firm which is a sole proprietorship, or (2) insolvency or bankruptcy of individual Producer or Producer firm.
- 4.9 **No Commission for Terminated and Subsequently Reinstated Policy.** In the event a policy issued pursuant to this Agreement expires or otherwise terminates and is subsequently reinstated, UPMC HP shall not be liable to Producer for further payment hereunder, unless UPMC HP determines, in its sole discretion, that such policy was reinstated through the efforts of Producer. In the event such reinstatement occurs through the efforts of Producer within six (6) months of the date of the termination of a policy, such reinstatement shall be deemed to be a renewal for purposes of calculating the commission on subsequent premiums.
- 4.10 **Annual Producer Appointment Fee(s).** To the extent required by the Pennsylvania Department of Insurance, UPMC HP will appoint Producer to enroll Groups in the UPMC HP health care benefit plan products. In all years subsequent to the initial term of this Agreement, commission paid to Producer in the month of February will be offset by the amounts of the annual producer Appointment Fee(s), as established by the Pennsylvania Department of Insurance, calculated for each Producer, including Sub-Producers, and paid by UPMC HP.
- 4.11 **Payment in Full.** Commission paid to Producer for Services provided hereunder shall constitute payment in full for such Services. Upon such payment, Producer shall have no further recourse against UPMC HP. Notwithstanding Section 14.6 of this Agreement below, failure of Producer to demand from UPMC HP any payment purportedly owed by UPMC HP to Producer at the time it becomes due and payable shall constitute a waiver for such payment by Producer.

5. **Duties of Producer.**

5.1 **Representation of UPMC HP.** Producer shall use Producer's best efforts to solicit new applications and secure renewals for the Products from Groups, *i.e.*, Services. In soliciting such new applications and securing renewals, Producer shall use Producer's best efforts to establish and maintain a positive relationship between UPMC HP and each Group. Producer shall not endorse, encourage, or solicit Groups to switch carriers/coverage from UPMC HP before the end of each group's benefit year. Producer shall in no way misrepresent UPMC HP, the Products, or any portion of its health care delivery system and shall utilize only marketing and sales materials provided or approved by UPMC HP. Producer shall follow and agrees to be bound by all of UPMC HP's policies and procedures with regard to the sales of and enrollment in the Products.

5.2 **Account Administration Responsibilities.** Producer shall be responsible for performing the following duties as they relate to account administration:

- Conduct open enrollment meetings
- Renewal administration
 - Present renewal to employer Group in timely fashion
 - Ensure that renewal documentation is returned to UPMC HP 30 days prior to renewal date
- Assist in the installation of Group Contracts, assist Group in maintaining proper administrative procedures, and provide ongoing consultative services to Group
- Familiarize and train Sub-Producers on duties and responsibilities under law and as set forth in this Agreement
- Adhere to Producer Portal guidelines of access as applicable
- Assist and cause Sub-Producers to assist with resolution of group premium payment deficiencies
- Provide support to Sub-Producers with case installation and open enrollment meetings
- Assist and cause Sub-Producers to assist members and groups with various account service issues
- Distribute UPMC HP sales and communication materials to Sub-Producers

- 5.3 **Sub-Producer Responsibilities.** Producer shall be responsible for performing the following duties as they relate to Sub-Producers:
- In the event that Producer learns any information that might affect a Sub-Producer's insurance license or the agreement with Producer and/or the Agreement with UPMC HP, Producer shall immediately notify UPMC HP of the same. Producer shall immediately notify UPMC HP of any complaints or compliance matters regarding Sub-Producer and, upon request, furnish UPMC HP with a statement concerning the facts and a written recommendation for the appropriate course of action.
 - Producer is responsible for training Sub-Producer, assisting Sub-Producer with producing quotes, and providing marketing material or other supplies.
 - Producer is responsible for submitting new Contracts for enrollment to UPMC HP on behalf of Sub-Producer. To the extent that additional information is needed by UPMC HP's underwriting department, the writing agent/Sub-Producer will assist in collecting said information.
- 5.4 **Producer Shall Abide by Requirements of Pennsylvania Insurance Department.** Producer shall at all times abide by the laws, rules, regulations, and requirements under the jurisdiction of the Pennsylvania Insurance Department and other state and federal agencies and authorities.
- 5.5 **Inappropriate Solicitation Activities Prohibited.** Producer shall not engage in any inappropriate solicitation activities, including, but not limited to: (1) seeking, requesting, or obtaining any insurance quote, bid, or illustration that is (i) intentionally higher, changed or revised upward, or otherwise less favorable to the Group than those provided by other insurance companies, (ii) designed or intended not to be selected by a Group, or (iii) designed or intended to present to the Group a false appearance of competition by insurance companies; (2) withholding or limiting the presentation of insurance quotes, bids, or illustrations sought on behalf of a Group in a manner which is contrary to the interests of the Group; or (3) engaging in activity known as bid-rigging or inappropriate steering of business, which is contrary to the interests of the Group.
- 5.6 **Producer Disclosure:** Producer shall disclose to each Group prior to its purchase of Products from UPMC HP that Producer will receive compensation from UPMC HP for the placement.
- 5.7 **Producer Shall Maintain Records.** Producer shall keep thorough and correct records and books of account of all transactions covered by this Agreement and shall preserve and hold all documents, correspondence, and records that come into Producer's possession or control relating to this Agreement for a period of at least seven (7) years. All books of accounts, documents, correspondence, and records of the Producer shall belong to the Producer and shall be open to reasonable inspection by a duly authorized representative of UPMC HP during normal business hours.

- 5.8 **Collection of Premiums**. Producer shall collect and immediately remit to UPMC HP at One Chatham Center, Suite 800, 112 Washington Place, Pittsburgh, Pennsylvania 15219, or to an entity authorized by UPMC HP to collect on its behalf, any initial premiums or sums of money delivered to Producer for UPMC HP by any new Group. Producer shall immediately remit to UPMC HP, at the address provided in this Section, any subsequent premiums or sums of money delivered to or collected by Producer for UPMC HP.
- 5.9 **Broker of Record Letter**. As set forth in Section 4.4, a Producer must submit a Broker of Record (BOR) or Transfer of Business (TOB) letter to UPMC HP to be eligible for commission, bonus, or reward payments hereunder. For new Groups, a BOR letter must be submitted with new business submission documentation as a signature on the new business page or a BOR authorization form. The original of the Group BOR letter may be provided directly to Producer for submission to UPMC HP or may be mailed or faxed directly by Group to Producer Relations at Two Chatham Center, Suite 1200, 112 Washington Place, Pittsburgh PA 15219. If a BOR letter is received by UPMC HP on or before the fifteenth (15th) day of a month, commission payments will be paid to the Producer effective the first day of the month immediately following the month in which the BOR is received. For example, if a BOR letter is received January 10, commission payments will begin effective February 1. If a BOR letter is received by UPMC HP after the fifteenth (15th) day of a month, commission payments will be paid effective the first day of the second month following the month in which BOR letter is received. For example, if a BOR letter is received January 18, commission payments will begin effective March 1. Notwithstanding the foregoing, UPMC HP reserves the right to, in its sole discretion, contact any Group, at any time, to verify Producer's status as BOR.
- 5.9.1 **Letter of Authorization**. Where a Producer is not the Broker of Record for a Group and the Group has executed and submitted to UPMC HP an Letter of Authorization (LOA) form in favor of said Producer, UPMC HP is authorized, pursuant to Group's instructions, to release the requested information to Producer, including disclosure of the same information to the Broker of Record if indicated.
- 5.10 **Transfer of Business Letter**. As set forth in Section 4.4, a Producer must submit a Broker of Record (BOR) or Transfer of Business (TOB) letter to UPMC HP to be eligible for commission, bonus, or reward payments hereunder. For transfers of existing Groups, either (1) the originating Producer must provide UPMC HP with a TOB letter, on originating Producer letterhead, providing authorization for the transfer of the Group(s) identified therein, the date of the transfer, and the identity of the receiving Producer, said receiving Producer to be carbon copied on the TOB letter; or (2) the originating Producer must advise UPMC HP of the change in Producer via written notification (BOR) on the Group's letterhead, signed by an officer representing the Group. The TOB letter from the originating Producer or written notification (BOR) from the Group may be mailed or faxed to Producer Relations at Two Chatham Center, Suite 1200, 112 Washington Place, Pittsburgh PA 15219. If a TOB/BOR is obtained by UPMC HP on or before the fifteenth (15th) day of a month, commission payments will be paid to the successor Producer effective the first day of the month immediately following the month in which the TOB/BOR is received. For example, if a TOB/BOR is received January 10,

commission payments will be made to the successor Producer effective February 1. If a TOB/BOR is received by UPMC HP after the fifteenth (15th) day of a month, commission payments will be paid to the successor Producer effective the first day of the second month following the month in which the TOB/BOR is received. For example, if a TOB/BOR is received January 18, commission payments will be made to the successor Producer effective March 1. Notwithstanding the foregoing, UPMC HP reserves the right to, in its sole discretion, contact any Group, at any time, to verify Producer's status as BOR.

- 5.11 **Confirmation of Broker of Record, Letter of Authorization, and Transfer of Business Letter Required.** If, within three (3) days of submission of BOR/LOA/TOB letter (or other approved evidence of Broker of Record status) by Producer or by Group to UPMC HP, Producer has not received confirmation from UPMC HP of such submission, Producer shall contact the UPMC HP Producer Relations hotline at 1-888-499-6622 to notify it of same. BOR/LOA/TOB letters not confirmed by UPMC HP will not be honored. In the event the new and/or incumbent Producer receives confirmation from UPMC HP of a change in Broker of Record status, Producer shall have ten (10) business days from receipt of the confirmation notice to dispute such change.
- 5.12 **Licensure.** Producer shall maintain valid Commonwealth of Pennsylvania General Agent or Producer licenses and shall provide UPMC HP with current copies of such licenses. Producer shall require maintenance of a valid Producer license by any Sub-Producer retained by Producer. Producer shall notify UPMC HP immediately as set forth herein upon limitation, suspension, cancellation, or expiration of such licenses.
- 5.13 **Insurance.** So long as this Agreement is in effect, Producer shall procure and maintain insurance insuring Producer and Sub-Producers against any and all liability arising out of the performance of professional services or caused by any errors, omissions, or negligent acts for which Producer and Sub-Producers may be held legally liable. Producer shall provide UPMC HP with evidence of such insurance upon request.
- 5.14 **Non-Disparagement.** Producer shall not disparage or otherwise make statements or representations which may discredit or harm the reputation of UPMC HP or any of its directors, officers, or employees.
- 5.15 **HIPAA Compliance.** Producer and Sub-Producers shall comply with the terms of the UPMC Health Plan Business Associates Agreement that is found at Attachment A and incorporated herein by reference.
6. **Limitation of Authority.** Producer shall have no authority to act on behalf of or represent UPMC HP other than as expressly set forth herein. In no event shall Producer have the authority to: (a) enter into or discharge Contracts for UPMC HP; (b) waive, alter, or amend the performance, provisions, terms, or conditions of any Contract for UPMC HP; (c) reject or accept any Group; (d) quote rates other than those rates set by UPMC HP; (e) accept renewal premiums unless expressly authorized by UPMC HP; (f) make endorsements; or (g) incur any liability on behalf of UPMC HP. Producer is not authorized to make any payment to any third party in connection with this Agreement unless such payment is authorized by UPMC HP in writing prior to the payment.

7. **UPMC HP Right of Acceptance or Rejection; Premium Refunds.** UPMC HP shall have the right at all times to reject any application for insurance or to rescind a policy previously issued to a Group and a Group may cancel a policy, all in accordance with the terms of the applicable policy and applicable law. In the event of any such rejection, rescission, or cancellation, premium(s) paid by the Group may be refunded, in whole or part, to the Group.
8. **Audit Rights.** UPMC HP, or its designee, shall have the ongoing right to audit the books and records maintained by Producer related to this Agreement or Producer's performance hereunder, whether in written or electronic form, and whether located at Producer's site or elsewhere.
9. **Recoveries of Overpayment of Commission, Bonus, and/or Reward.**
 - 9.1 **Recovery of Commission, Bonus, and/or Reward.** UPMC HP hereby reserves the right to recover any commission, bonus, and/or reward (a) paid or advanced to Producer in the event of a non-payment of premium; (b) paid to Producer on premiums which are refunded to a Group; (c) paid to Producer when Producer is no longer Broker of Record; (d) determined by audit performed by UPMC HP pursuant to Section 8 hereof to have been paid in error; (e) determined to be in violation of any local, state, or federal law; (f) paid to Producer on Contract(s)/policy(ies) which failed to meet the Bonus requirements of the Bonus Program and/or reward program specifics as highlighted in Section 4.3; or (g) otherwise determined by UPMC HP to have been paid in error.
 - 9.2 **Producer Shall Reimburse Overpayment.** In the event of an overpayment of a commission, bonus, and/or reward by UPMC HP to Producer, UPMC HP shall recover any such overpayment by withholding future commission, bonus, and/or reward payments to Producer as a set-off against such overpayments. UPMC HP's right of set-off hereunder shall not serve as the exclusive remedy of UPMC HP for the recovery of overpayments or otherwise.
 - 9.3 **Expenses.** Producer shall reimburse UPMC HP for all expenses incurred by UPMC HP, including, but not limited to, collection agency and/or legal fees, if any, to obtain reimbursement of the overpayment from the Producer.
10. **Advertising Materials and Information.** Producer shall use only those insurance applications, printed materials and any other sales or marketing materials as are provided by UPMC HP, except as UPMC HP may otherwise approve in writing.

11. **Confidentiality.**
- 11.1 **Producer Shall Maintain Confidentiality.** Except for such disclosures required by law or hereunder, Producer shall maintain in strict confidence: (a) the commission, bonus, and/or reward arrangements set forth in the Commission Program, Bonus Program, and Sections 4.3 and 4.5 hereto; (b) any proposals, premium rates, and risk-sharing arrangements presented to Groups; and (c) all proprietary and business information of UPMC HP or any affiliate of UPMC HP that relates to UPMC HP's or an affiliate's past, present, or future research or development activities, business operations, business strategies and strategic relationships, or financial condition.
- 11.2 **No Trade Secret or Property Rights.** Nothing in this Agreement shall be construed as a grant by implication, estoppel, or otherwise of any rights to Producer under UPMC HP's or its affiliated companies' trade secrets, trademarks, trade names, or any other intellectual property rights whatsoever.
12. **Indemnification.** Producer agrees to indemnify and hold UPMC HP harmless from and against any and all claims, demands, or causes of action whatsoever resulting from or arising out of any act, error, or omission on the part of the Producer, Producer's Sub-Producers, Producer's representatives, or Producer's employees.
13. **Term and Termination.**
- 13.1 **Term.** The initial term of this Agreement shall commence on the Effective Date of this Agreement and end on December 31, 2012. Thereafter this Agreement shall automatically renew for one (1) year period, subject to any change by UPMC HP in its commission, bonus, and/or reward payments, unless earlier terminated in accordance with this Agreement.
- 13.2 **Unilateral Termination.** UPMC HP, in its sole discretion, may terminate this Agreement for any reason or no reason upon thirty (30) days' prior written notice to Producer.
- 13.3 **Mutual Termination.** The parties may mutually agree to terminate this Agreement.
- 13.4 **Automatic Termination.** This Agreement and all obligations of UPMC HP contained herein shall terminate immediately upon: (i) suspension or revocation of Producer's professional license; (ii) death of individual Producer or of Producer who is sole proprietor of Producer firm; (iii) insolvency or bankruptcy of individual Producer or Producer firm; or (iv) finding of Cause as defined in Section 13.5 of this Agreement.
- 13.5 **Termination for Cause.** A termination shall be considered for "Cause" when: (i) Producer breaches any of its material duties or obligations hereunder and such breach is not cured within thirty (30) days of written notice of such breach to Producer; (ii) Producer violates any law or regulation; (iii) Producer engages in inappropriate solicitation activities as defined in Sections 5.1 and 5.5 of this

Agreement; (iv) Producer knowingly misrepresents the provisions, benefits, or charges of any Group Contract; (v) Producer withholds or misappropriates funds of UPMC HP; (vi) Producer engages in disparaging or discrediting UPMC HP as set forth in Section. 5.14; or (vii) Producer commits a fraudulent act or other malfeasance in the performance of duties under this Agreement.

14. **Miscellaneous.**

- 14.1 **Assignment.** This Agreement is intended to secure the personal services of Producer, and, therefore, neither this Agreement nor any of Producer's rights or obligations hereunder may be assigned or transferred in any manner, without the prior written consent of UPMC HP.
- 14.2 **Basic Relationship.** UPMC HP and Producer are separate and independent entities. The relationship between UPMC HP and Producer is purely Contractual and neither UPMC HP nor Producer is the employee, servant, agent, or representative of the other.
- 14.3 **Regulatory Compliance.** UPMC HP and Producer each agree to comply with all applicable statutes, regulations, and requirements now or hereafter in force and effect of all municipal, county, state, and federal authorities. Such statutes, regulations, and requirements shall include, without limitation, the applicable requirements under any state or federal insurance, fair employment practices, or similar laws.
- 14.4 **Entire Agreement; Modification.** This Agreement constitutes the entire understanding of the parties hereto and supersedes any and all written or oral agreements, representations, or understandings. UPMC HP shall have the right to amend this Agreement by notifying Producer in writing at least thirty (30) days prior to the effective date of the amendment. Producer may terminate this Agreement upon Producer's receipt of such notice of amendment, by notifying UPMC HP in writing of such termination within the thirty (30) day period; provided, however, if UPMC HP has not received notice of such termination within that thirty (30) day period, Producer's silence shall constitute acceptance of such amendment. No other modifications, discharges, amendments, or alterations shall be effective unless evidenced by an instrument in writing signed by Producer and UPMC HP, except as such changes may be required by law.
- 14.5 **Invalid Provisions.** Notwithstanding and in addition to UPMC HP's right to amend set forth in Section 14.4 of this Agreement, upon the enactment of any law or regulation, or any order or direction of any governmental agency affecting this Agreement, UPMC HP may, by written notice to Producer, amend this Agreement in such a manner as UPMC HP determines necessary to comply with such law or regulation, or any order or directive of any governmental agency.

- 14.6 **Non-Waiver.** Failure of any party to require performance of any provision of this Agreement shall not constitute a waiver of the right to enforce such provision at a later time. Waiver of any breach of any provision hereof shall not constitute a waiver of any other breach.
- 14.7 **Notice.** Any notice, request, demand, or other communication required or permitted hereunder shall be given in writing by certified United States mail, return receipt requested, to the party to be notified. All communications shall be deemed given and received upon delivery or attempted delivery to the address specified herein, as from time to time amended. The addresses for the parties for the purposes of such communication are:

To UPMC HP:

To Producer: As set forth on signature page.

One Chatham Center, Suite 800
112 Washington Place
Pittsburgh, PA 15219
Attention: Producer Relations Department

Either party may, at any time, change or amend its address for notification purposes, by mailing a notice as required hereinabove, stating the change and setting forth the new address. The new address shall be effective on the date specified in such notice, or if no date is specified, on the tenth (10th) day following the date such notice is received.

- 14.8 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to its choice of laws provisions. Producer submits to the jurisdiction of the courts of the Commonwealth of Pennsylvania, and agrees that Allegheny County, Pennsylvania, is the appropriate venue.
- 14.9 **Headings.** The section and other headings used herein are for reference and convenience only, and shall not enter into the interpretation of this Agreement.
- 14.10 **Survival.** Sections 4.7, 4.10, 5.13, 8, 9 (including all subparts), 11 (including all subparts), 12, and 14 (including all subparts) shall survive termination of this Agreement.

ATTACHMENT A

BUSINESS ASSOCIATE AGREEMENT

This Business Associate Information Use and Disclosure Agreement (the "Business Associate Agreement") is entered into as of the last date of signature below by and between **UPMC HEALTH PLAN, INC.**, and/or its subsidiaries or affiliates as defined in this document, hereinafter referred to as "Covered Entity," and _____, hereinafter referred to as "Business Associate," (collectively, the "Parties").

RECITALS

WHEREAS, Congress enacted the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") on August 21, 1996, that established rules governing the privacy and security of all individually identifiable health information (referred to as "Protected Health Information" or "PHI"), regardless of form;

WHEREAS, the United States Department of Health and Human Services ("DHHS") promulgated, pursuant to HIPAA, a Privacy Rule and a Security Rule, both, as defined below, governing individually identifiable health information;

WHEREAS, Congress enacted the Health Information Technology for Economic and Clinical Health ("HITECH") Act, Title XIII of Division A and Title IV of Division B of the American Recovery & Reinvestment Act of 2009 ("ARRA") on February 17, 2009, that established rules governing additional security provisions particularly as concerns breach and notification of breach of identifiable health information;

WHEREAS, DHHS promulgated, pursuant to HITECH and ARRA, interim final rules governing breach notification for unsecured PHI;

WHEREAS, DHHS will continue to issue guidances, standards and regulations in its ongoing role as regulatory agency for HIPAA and Health Information Technology;

WHEREAS, the Parties wish to enter into an arrangement whereby Business Associate will provide goods and/or services to Covered Entity, and, pursuant to such arrangement, Business Associate may be considered a "Business Associate" as defined below; and

WHEREAS, Business Associate will have access to and/or receive from Covered Entity, or create and/or maintain on behalf of Covered Entity, PHI that can be used, disclosed, created, received, maintained, and transmitted only in accordance with this Business Associate Agreement and the HIPAA Privacy and Security Regulations at 45 CFR §§160-164.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and covenants set forth herein and other good and valuable consideration, Covered Entity and Business Associate agree as follows:

I. DEFINITIONS

[Except as otherwise defined herein, any and all capitalized terms in this Agreement shall have the definitions set forth in the HIPAA Security and Privacy Rules and HITECH Act.]

- (a)** *Administrative Safeguards* shall have the same meaning as the term “Administrative Safeguards” in 45 CFR §164.304, and contained in the standards and implementation specifications in 45 CFR §164.308.
- (b)** *Affiliates* shall mean any entities which control, are controlled by, or are under common control with UPMC Health Plan, Inc.
- (c)** *Breach* shall have the same meaning as the term “breach” in 45 CFR §164.402.
- (d)** *Business Associate* shall have the same meaning as the term “Business Associate” in 45 CFR §160.103.
- (e)** *Covered Entity* shall have the same meaning as the term “Covered Entity” in 45 CFR §160.103.
- (f)** *Designated Record Set* shall have the same meaning as the term “Designated Record Set” in 45 CFR §164.501.
- (g)** *Electronic PHI* shall have the same meaning as the term “Electronic Protected Health Information” in 45 CFR §160.103.
- (h)** *Group Health Plan* shall have the same meaning as the term “Group Health Plan” in 45 CFR §160.103.
- (i)** *Health Plan* shall have the same meaning as the term “Health Plan” in 45 CFR §160.103.
- (j)** *Individual* shall have the same meaning as the term “Individual” in 45 CFR §160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).
- (k)** *Integrity* shall have the same meaning as the term “Integrity” in 45 CFR §164.304.
- (l)** *Physical Safeguards* shall have the same meaning as the term “Physical Safeguards” in 45 CFR §164.304, and contained in the standards and implementation specifications in 45 CFR §164.310.
- (m)** *Plan Sponsor* shall have the same meaning as the term “Plan Sponsor” in 45 CFR §164.103.
- (n)** *Privacy Rule* shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 CFR §§160 and 164, Subparts A and E.
- (o)** *Protected Health Information* shall have the same meaning as the term “Protected Health Information” in 45 CFR §160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- (p)** *Required by Law* shall have the same meaning as the term “Required by Law” in 45 CFR §164.103.
- (q)** *Secretary* shall mean the Secretary of the Department of Health and Human Services or his or her designee.

- (r) *Security Incident* shall have the same meaning as the term “Security Incident” in 45 CFR §164.304.
- (s) *Security Rule* shall mean the Standards for Security of Individually Identifiable Health Information at 45 CFR §164, Subparts A and C.
- (t) *Technical Safeguards* shall have the same meaning as the term “Technical Safeguards” in 45 CFR §164.304, and contained in the standards and implementation specifications in 45 CFR §164.312.
- (u) *Unsecured Protected Health Information* shall have the same meaning as the term “unsecured protected health information” in 45 CFR §164.402, according to the technologies and methodologies established by the Secretary of Health and Human Services in the most current guidance issued in the Federal Register (74 FR 19006-19010, and its annual successors).

II. OBLIGATIONS AND ACTIVITIES OF BUSINESS ASSOCIATE

- (a) *Limits on Use and Further Disclosure Established by this Agreement and Law.* Except as otherwise specifically permitted in this Agreement or the Underlying Agreement to this Agreement, Business Associate agrees that it will use or disclose PHI only for the purpose of fulfilling its contractual responsibilities required by these Agreements or as Required by Law.
- (b) *Appropriate Safeguards.* Business Associate agrees to establish and use the required Administrative, Physical, and Technical Safeguards in the same manner as they apply to the Covered Entity in accordance with the minimum necessary standards of the HIPAA Privacy and Security Rules and to prevent use or disclosure of PHI other than as permitted by this Agreement. Business Associate further agrees that it will implement Administrative, Physical, and Technical Safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic PHI that it creates, receives, maintains, or transmits on behalf of the Covered Entity.
- (c) *Workforce Training.* Business Associate agrees that all members of its workforce servicing the Covered Entity's account and creating, receiving, maintaining, or otherwise accessing, using, or disclosing PHI of the Covered Entity shall be appropriately trained on the Business Associate's policies and procedures regarding compliance with the requirements of HIPAA and HITECH/ARRA regulations.
- (d) *Mitigation of Improper Use/Disclosure in Violation of Agreement with Covered Entity.* Business Associate agrees to establish and to provide to Covered Entity, upon request, procedures for mitigating, to the maximum extent practicable, any harmful effect from the use or disclosure of PHI in a manner contrary to this Agreement or to the HIPAA Privacy and Security Regulations at 45 CFR §164.530(f). Business Associate further agrees to mitigate any harmful effect that is known to Business Associate of a use or disclosure of PHI by Business Associate, in violation of this Agreement.
- (e) *Reports of Improper Use or Disclosure.* Business Associate agrees to report to Covered Entity any use or disclosure of PHI not permitted by this Agreement in as expeditious a time frame as possible.

- (f) *Security Incident*: The Business Associate further agrees to report to the Covered Entity any Security Incident of which it becomes aware, particularly if the security incident results or may have resulted in any Breach.
- (g) *Notification of Breach*: Business Associate agrees to report to Covered Entity any breach of unsecured PHI as quickly as possible after the discovery of the breach. In no circumstance shall this report be beyond seven business days from the discovery of the breach. The report shall include the names of each individual whose PHI has been breached, and shall include all details required to be included in the notification that the Covered Entity must send to the individual. These elements are included in 45 CFR §164.404(c).
- (h) *Assistance with Requirements Following Breach*: Business Associate agrees to assist Covered Entity in any regulatory requirements concerning required notifications, including Notice to the Secretary, as well as assistance in litigation or administrative proceedings due to breaches caused by the Business Associate or its agents.
- (i) *Subcontractors and Agents*. Business Associate agrees to ensure that any agent, including a subcontractor, to whom it provides PHI, received from or created by Business Associate on behalf of Covered Entity, agrees to the same restrictions and conditions that apply to Business Associate with respect to such information, and agrees to implement reasonable and appropriate safeguards to protect any such PHI.
- (j) *Right of Access to PHI*. Business Associate agrees to make available PHI in a Designated Record Set to the extent and in the manner required by 45 CFR §164.524. In the event that the PHI access request is received by the Business Associate directly from the Individual who is the subject of the PHI, the Business Associate shall coordinate the Individual's request with Covered Entity in order to meet the requirements under 45 CFR §164.524.
- (k) *Amendment and Incorporation of Amendments*. Business Associate agrees to make, at the request of, and in the time and manner designated by the Covered Entity, any amendment(s) to PHI in a Designated Record Set pursuant to 45 CFR §164.526. If the request for amendment comes from the Individual who is the subject of the PHI, Business Associate agrees to provide the request to the Covered Entity and come to a determination to agree or deny the amendment request. Any denial of amendment request will be handled in accordance with 45 CFR §164.526(d).
- (l) *Access to Books and Records*. Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary, or his designee, at the request of Covered Entity, for purposes of determining Covered Entity's compliance with the Privacy Rule and Security Rule.

Depending on the line of business that the Business Associate is involved in servicing, the Business Associate also agrees that this access shall include the Centers for Medicare and Medicaid Services (CMS) for any and all Medicare products, Department of Public Welfare (DPW) for Medical Assistance, Pennsylvania Insurance Division (PID) for the CHIP product, self-funded employer groups, individual products, or the PA Department of Health or PID for any licensure or delegation reviews or for compliance with Pennsylvania regulations concerning privacy and security found in 31 PA Code 146a, b, and c.

- (m)** *Provide Accounting.* Business Associate shall document disclosures and information related to such disclosures of PHI which can be subject to requests for Accounting of Disclosures, so that Covered Entity may respond to an Individual's request for an accounting of disclosures of PHI in accordance with 45 CFR §164.528. Business Associate will periodically, at the request of the Covered Entity, provide reports to the Covered Entity of all disclosures subject to the Accounting of Disclosures requirements in 45 CFR §164.528(a), in the format specified by Covered Entity. In the event that Covered Entity requires disclosure information beyond the quarterly reporting requirement, Business Associate will comply with Covered Entity's request in a timely manner so that Covered Entity may respond to the Individual's formal request within 30 days of receipt of a request for an accounting.
- (n)** *Prompt Response for Request for Accounting.* Business Associate agrees to provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with Section (i) above of this Agreement, so that Covered Entity may respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 CFR §164.528.
- (o)** *Return/Disposal of PHI.* At termination of the Agreement, if feasible, Business Associate shall return or destroy all PHI received from, or created or received by, the Business Associate on behalf of the Covered Entity, that the Business Associate still maintains in any form. Business Associate shall retain no copies of such information. If such return or destruction is not feasible, Business Associate shall extend the protections of the Agreement to the information and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.
- (p)** *Sanction Procedures.* Business Associate agrees that it must develop and implement a system of sanctions for any employee, subcontractor, or agent who violates this Agreement or the HIPAA Privacy Regulations pursuant to 45 CFR §164.530(e)(1).
- (q)** *Corrective Action Plan:* Based on any identified deficiency or deficiencies in Business Associate's performance of its contractual responsibilities concerning privacy, security, or breach notification, Business Associate agrees to collaborate with the Covered Entity to remedy the identified deficiency or deficiencies, and to be subject to periodic audits by the Covered Entity for compliance with the corrective action plan.
- (r)** *Grounds for Breach.* Any non-compliance by Business Associate with this Agreement or the HIPAA Privacy and Security Regulations will automatically be considered grounds for breach, if Business Associate knew or reasonably should have known of such non-compliance and failed to immediately take reasonable steps to remedy the non-compliance.
- (s)** *Privacy Practices.* Covered Entity shall provide Business Associate with any forms required under HIPAA, including, but not limited to, Notice of Privacy Practices, Accounting for Disclosures, and Authorization. Covered Entity retains the right to change the applicable privacy practices and documents. Business Associate must implement changes as soon as practicable, but not later than 45 days from the date of notice of the change and receipt of the forms.

III. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- (a) *As Stipulated in Underlying Services Agreement:* Except as otherwise limited in this Agreement, Business Associate may use or disclose PHI for the purpose of fulfilling any responsibilities it may have with any employer groups or individuals that are included under the previously executed agreement, entitled: **PRODUCER AGREEMENT** that the Business Associate has with the Covered Entity, provided that such use or disclosure would not violate the Privacy Rule if done by the Covered Entity or the minimum necessary policies and procedures of the Covered Entity. In the case of plan sponsors (as defined in the Privacy Rules) or an employer group that is not otherwise a covered entity under HIPAA, only summary health information and enrollment/disenrollment information may be used or disclosed.
- (b) Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of the Business Associate or for carrying out the legal responsibilities of the Business Associate as delineated in this Agreement and the Underlying Services Agreement with the Covered Entity.
- (c) Except as otherwise limited in this Agreement, Business Associate may disclose PHI possessed by Business Associate in its capacity as a Business Associate of Covered Entity for the proper management and administration of Business Associate or for carrying out the legal responsibilities of Business Associate if (1)(A) the disclosure is Required by Law, or (B) Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to such person, and (2) such person agrees to notify Business Associate of any instances of which such person is aware in which the confidentiality of the information has been breached.
- (d) Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Covered Entity as permitted by 42 CFR §164.504(e)(2)(i)(B).
- (e) Business Associate may use PHI to report violations of law to appropriate federal and state authorities, consistent with §164.502(j)(l).
- (f) If involved in the Covered Entity's commercial line of business, under no circumstances may the Business Associate reveal PHI to the employer group, unless employer group staff requesting the PHI has documented with the Covered Entity the employer group's status as a covered entity. In the case of a Group Health Plan, this would mean that evidence of the certification documentation required in §164.504(f)(2) has been submitted.
- (g) In the event, that staff of a plan sponsor or non-covered entity status employer group wish to discuss PHI with the Business Associate for activities such as claims assistance or complaint or grievance assistance, the Business Associate must first obtain the Individual's completed authorization form (using the Covered Entity's Member Authorization Form).
- (h) For Business Associates who also have direct contact with employees of employer groups, a UPMC Health Plan Personal Representative Designation Form must be used for any employee who wishes to discuss an of-age dependent's PHI.

IV. ADDITIONAL DISCLOSURES WHICH BUSINESS ASSOCIATE MAY MAKE

Business Associate may disclose PHI in the following circumstances pursuant to 45 CFR §164.512:

- (1) *Uses and disclosures required by law.*
- (2) *Uses and disclosures for public health activities.*
- (3) *Uses and disclosures for health oversight activities.*
- (4) *Disclosures for judicial and administrative proceedings.*
- (5) *Disclosures for law enforcement purposes.*
- (6) *Uses and disclosures to avert a serious threat to health or safety.*
- (7) *Uses and disclosures for specialized government functions.*

These disclosures must be tracked for accounting purposes as required by 45 CFR §164.528 and Section II(m) of this Agreement.

V. OBLIGATIONS OF COVERED ENTITY

- (a)** *Provision of Document Templates.* Covered Entity shall notify Business Associate of any limitation(s) contained in the Notice of Privacy Practices and Authorization Form that the Covered Entity produces in accordance with 45 CFR §164.520 and 45 CFR §164.508, respectively, to the extent that such limitation may affect Business Associate's use or disclosure of PHI. Additionally, the Covered Entity shall provide the Business Associate with the other forms that it has developed for: Personal Representative Designation (45 CFR §164.502(g)), and requests for Access, Amendment, Restriction, Confidential Communication, and Accounting of Disclosures. While the Business Associate may assist an Individual in completing these forms, all forms are to be submitted to the UPMC Health Plan's Member Services Department for processing.
- (b)** *Permissions.* Should an Individual change or revoke permission to use or disclose PHI, Covered Entity shall provide Business Associate with the change, if such change affects Business Associate's permitted or required uses and disclosures.
- (c)** *Restrictions.* Covered Entity shall notify Business Associate of any restriction(s) on the use or disclosure of PHI to which the Covered Entity has agreed in conformity with 45 CFR §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.
- (d)** *Permissible Requests by Covered Entity.* Covered Entity shall not request that Business Associate use or disclose PHI in any manner that would not be permissible under the Privacy Rule if done by Covered Entity.
- (e)** *Access and Copies.* Covered Entity shall designate the time and manner by which the Business Associate will grant to an Individual, who is the subject of the PHI, the right to access and copy that Individual's PHI, under 45 CFR §164.524 and 45 CFR §164.504(e)(2)(ii)(E).

- (f) *Accounting.* Covered Entity shall designate the time and manner by which Business Associate may document and make available an accounting of disclosures under 45 CFR §164.528 and §164.504 (e)(2)(ii)(G).
- (g) If the underlying Services Agreement requires the Business Associate to perform data aggregation, management, or administrative activities, the Business Associate may use or disclose PHI for those specific purposes.

VI. TERM AND TERMINATION

- (a) *Term.* Term of this Agreement shall be effective as of the date of execution, and shall terminate when all of the PHI provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is infeasible to return or destroy PHI, protections are extended to such information, in accordance with the termination provisions in this Section.
- (b) *Termination for Cause.* Upon either Parties knowledge of a material breach by the other Party, the non-breaching Party shall either:
 - (1) provide an opportunity for the other Party to cure the breach or end the violation and terminate this Agreement where the other Party does not cure the breach or end the violation within the time specified by non-breaching Party, or
 - (2) immediately terminate this Agreement if the other Party has breached a material term of this Agreement and cure is not possible.
- (c) *No Termination.* If neither cure nor termination is possible, then the non-breaching Party shall report the violation to the Secretary.
- (d) *Effect of Termination.*
 - (1) Except as provided in paragraph (2) of this section, upon termination of this Agreement, for any reason, Business Associate shall return or destroy all PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to any PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of such PHI.
 - (2) In the event that Business Associate determines that returning or destroying the PHI is infeasible, Business Associate shall provide to Covered Entity notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of PHI is infeasible, Business Associate shall extend the protections of this Agreement to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for as long as Business Associate maintains such PHI.

VII. MISCELLANEOUS

- (a)** *Regulatory References.* A reference in this Agreement to a section in the Privacy Rule, Security Rule, or Breach Notification Rule means the section as in effect or as amended, and for which compliance is required.
- (b)** *Amendment.* The Parties agree to take such action as is necessary to amend this Agreement from time to time so that Covered Entity shall comply with the requirements of the Privacy Rule, Security Rule, or Breach Notification Rule and the Health Insurance Portability and Accountability Act of 1996, Public Law No. 104-191, the HITECH Act, and subsequent requirements as stipulated by the Department of Health and Human Services or other federal agency with regulatory authority or jurisdiction, whether or not communicated to the Business Associate by the Covered Entity.
- (c)** *Survival.* The respective rights and obligations of Business Associate under Section VII(d) of this Agreement shall survive the termination of this Agreement.
- (d)** *Interpretation.* Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits Covered Entity to reasonably comply with the Privacy Rule, Security Rule, or Breach Notification Rule.

WHEREFORE, the terms hereof are incorporated into the underlying Producer Agreement as stated in Section 5.14 of the Producer Agreement and the parties are duly bound hereby upon execution of the same.

UPMC HEALTH PLAN

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112 Washington Place
Pittsburgh, PA 15219
www.upmchealthplan.com