

PRODUCER AGREEMENT

THIS AGREEMENT is effective as of the last date set forth on the signature page (“Effective Date”), by and among UPMC HEALTH PLAN, INC., UPMC HEALTH OPTIONS, INC., UPMC HEALTH COVERAGE, INC., UPMC HEALTH BENEFITS, 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 (herein referred to as “Individual(s)” or “Member(s)”) 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 UPMC HP health care benefit plan products (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 Agency.** A General Agency is any agency that utilizes Sub Producers to generate sales and sales activity. This type of agency generates the majority of their revenue under this description.
- 1.3 **Parent.** Any agency that has a sub agency writing business through them that is not a General Agency.
- 1.4 **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. Producers shall be assigned a Producer Status in accordance with the criteria set forth in Exhibit A, which is attached hereto and subject to amendment from time to time.
- 1.5 **Service Only.** Any agency or Producer that has been expressly granted Service Only status by UPMC HP in its sole discretion. Service Only status is reserved for Producers who are serving their current block of business only. Service Only Producers are not permitted to market new UPMC HP business.
- 1.6 **Sub Agency.** Any agency contracted with UPMC HP through a Parent or General Agency.
- 1.7 **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.
- 1.8 **Subscriber.** The primary applicant for enrollment in a UPMC HP health care benefit plan product.

1.9 **Writing Agency.** An agency writing business with UPMC HP. This agency may write business through a Parent or through a General Agency. The individual responsible for writing the business is referred to as the Writing Producer.

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.** General Agent/Producer may enter into agreements with Sub-Producers to represent General Agent/Producer in soliciting applications for the Products covered by this Agreement. Sub-Producers must stay with the General Agent appointing them for a period of six (6) months before moving to another General Agency, unless otherwise authorized by the current General Agent. Where any provision of the agreement between General Agent/Producer and Sub-Producer conflicts with this Agreement, this Agreement shall supersede and prevail. General Agent/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 General Agent/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.** Subject to the conditions set forth in 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. During the first twelve (12) months of a Group's Contract term, Producer shall be eligible for commission payments only for those Groups directly enrolled by said Producer. After the initial twelve (12) months of a Group's contract term, the Broker of Record for said Group shall be eligible for commission payments.

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, attached hereto as Exhibit B. Bonus programs offered by UPMC HP may be terminated by UPMC HP at any time in UPMC HP's sole discretion. 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/Sub-Producers. Alternatively, UPMC HP may opt to pay the reward directly to the Producer/General Agent on behalf of the writing Producer/Sub-Producer, in which case the Producer/General Agent shall pay the entire reward amount to the writing Producer/Sub-Producer. Reward Programs offered by UPMC HP are subject to the terms and conditions of this Agreement and 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 5.11, 5.13 and 5.14 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 **Special Incentive Programs.** From time to time and in its sole discretion, UPMC HP may choose to offer special incentive programs applicable to designated commercial products, market segments, industries, geographies, or other such selected criteria as UPMCHP deems appropriate. Any such Special Incentive Programs offered or incentives paid by UPMCHP shall be separate from and in addition to any other applicable payments under this Agreement. Program details will be provided to Producers in advance and will be incorporated into this Agreement by addendum. All special incentive programs will be subject to the terms and conditions of this Agreement and Producer further agrees that acceptance of special incentives shall constitute Producer's acceptance of the terms set forth in any Special Incentive Program addendum. Special Incentive Programs may be modified or terminated by UPMC HP at any time in UPMC HP's sole discretion. Producer eligibility for participation in a Special Incentive Program shall be subject to the sole discretion of UPMC HP. Unless explicitly stated otherwise, termination of this Agreement shall also constitute termination of any applicable Special Incentive Program addendums, for which no special notice shall be required.

- 4.6 **Producer Responsible for Payment of Sub-Producers.** A General Agent/Producer 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.
- 4.7 **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.
- 4.8 **No Right to Commission After Termination of Agreement.** Producer shall not be eligible to receive commission, bonus or reward payments in accordance with the terms of this Agreement, as set forth in Section 4.1, 4.2 and/or 4.3, effective as of the date of termination of this Agreement.
- 4.9 **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.
- 4.10 **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.

- 4.11 **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 December will be offset by the amount(s) of the annual producer Appointment Fee(s), as established by the Pennsylvania Department of Insurance, calculated for each Producer including Sub-Producers and Writing Producers, and paid by UPMC HP. This fee shall cover the preceding calendar year, regardless of the length of time a Producer has been appointed with UPMC HP. The December commission report will show this fee as a line item deduction.
- 4.12 **Direct Deposit.** All Producers appointed with UPMCHP must complete direct deposit documentation for receipt of all commission, bonus, and reward payments. UPMC HP will not issue paper checks.
- 4.13 **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 the UPMC 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 Health Plan 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

UPMC HP reserves the right to contact Groups directly to ensure Producer Duties and Account Administration Responsibilities, along with customer service standards are being met.

5.3 Producer Responsibilities Specifically Related to Federally Facilitated Marketplaces. Producers who wish to sell Qualified Health Plans (QHP) or otherwise assist Groups through the Federally Facilitated Marketplaces (FFM) shall be responsible for the following:

- Completing the registration process as set forth in 45 CFR § 155.220 and § 155.260, which includes registering on the Medicare Learning Network, completing required training and executing applicable agreements. Producer must provide UPMC HP with a copy of their FFM UserID and training completion certificates, which may be required to be updated on a yearly basis. In the event that Producer registered with the FFM in a previous plan year, the Producer or must complete the FFM registration renewal process.
- Complying with applicable state privacy and security standards, as well as the federal privacy and security standards required by 45 C.F.R. § 155.260. Producer must continue to maintain the confidentiality of personally identifiable information (“PII”) after the termination of Producer’s agreement with the FFM in accordance with the requirements under 45 C.F.R. §155.260.
- Providing UPMC HP with Producer’s National Producer Number (NPN) from the National Insurance Producer Registry.
- Producer agrees to refrain from utilizing any marketing methods that discourage individuals with significant health needs from enrolling in QHPs. UPMC HP reserves the right to monitor marketing materials used

by Producer that specifically relate to UPMC HP QHPs to ensure that they comply with UPMC HP's agreement with the FFM.

Producer agrees and acknowledges that commission payments offered by UPMC HP under this Agreement provide the same amount of compensation for QHPs sold on the FFM as offered for plans sold outside of the FFM.

5.4 Producer Responsibilities for Sub-Producers. 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 Producer/Sub-Producer will assist in collecting said information.

5.5 General Agency/Parent Responsibilities. The General Agency and/or Parent must provide the Writing Producer information on all sold and renewal business, including agency and Producer name.

5.6 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.

- 5.7 **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.
- 5.8 **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.
- 5.9 **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.

5.10 Collection of Premiums. Producer shall collect and immediately remit to UPMC HP at 600 Grant Street, US Steel Tower, 25th Floor, 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.

5.11 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. The Writing Producer listed on the BOR shall be considered the owner of the Group business. The original of the Group BOR letter may be provided directly to Producer for submission to UPMC HP or may be mailed, emailed, or faxed directly by Group to Producer Relations at 600 Grant Street, US Steel Tower, 25th Floor, Pittsburgh, Pennsylvania 15219. 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 18th, commission payments will begin effective March 1st. Upon receipt of a BOR, UPMC HP will notify the current Producer and new Producer of the BOR change. If there is a dispute as to who the appropriate Broker of Record is, the current Producer can notify Group and Group shall have the right to rescind the new Producer BOR within thirty (30) days of the date on which UPMCHP notified the current Producer of the BOR change. 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.

5.12 Letter of Authorization to Release Information. Where a Producer is not the Broker of Record for a Group, the Group's Contract has been in effect for one year or more, and the Group has executed and submitted to

UPMC HP a 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. LOAs shall be valid for ninety (90) days from the date on the letter. Following the expiration of ninety (90) days from the date of the LOA, a new LOA must be submitted. All LOAs must be submitted on company letterhead and can be mailed, faxed, or emailed to the Producer Relations Department at UPMC HP.

5.13 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 600 Grant Street, US Steel Tower, 25th Floor, Pittsburgh, Pennsylvania 15219. 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 18th, commission payments will be made to the successor Producer effective March 1st. Upon receipt of a TOB letter, UPMC HP shall notify the current Producer and new Producer of the TOB change. 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. All Group Transfer of Business

transactions will be paid to the receiving producer at \$19.50 per contract. All contracts transferred during any portion of the calendar year will not be considered when calculating the net growth bonus for the year in which the transfer occurred. In addition, all transfers of business will not be considered in an agency's total book of business during the calendar year in which it was transferred. These contracts will count toward the net growth bonus and total book of business the following calendar year but will continue to be paid at the \$19.50 transfer of business commission level.

- 5.14 **Confirmation of Broker of Record, Letter of Authorization and Transfer of Business Letter Required.** If, within seven (7) business 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 1.88.499.6622 or by email at producerrelations@upmc.edu 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 thirty (30) days from receipt of the confirmation to dispute such change.
- 5.15 **Licensure.** Producer shall maintain valid Commonwealth of Pennsylvania General Agent or Producer licenses and shall provide UPMC HP with current copies of such licenses. General Agent/Producer shall require maintenance of a valid Producer license by any Sub-Producer so retained. Producer shall notify UPMC HP immediately as set forth herein upon limitation, suspension, cancellation or expiration of such licenses.

- 5.16 **Training.** Producer must complete UPMC HP required training within sixty (60) days from the Producer's effective date of appointment. Producer shall also be required to complete all other required training as set forth in this Agreement or as required by state or federal law.
- 5.17 **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.
- 5.18 **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.
- 5.19 **HIPAA Compliance.** Producer and Sub-Producer shall have access to Protected Health Information ("PHI") in connection with completion of Services under this agreement. Producer and Sub-Producer acknowledge that they have reviewed and agree to be bound by the UPMC Health Plan Terms and Conditions for Business Associates, a copy of which can be accessed at <http://www.upmchealthplan.com/pdf/VendorHIPAA.pdf>. Such Terms and Conditions for Business Associates are subject to modification by UPMC HP. It is the responsibility and obligation of Producer and Sub-Producer to periodically review the UPMC Health Plan Business Associate Terms and Conditions to ensure compliance therewith.
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 on-going 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 4.2 and/or 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 4.1 - 4.4 hereto; (b) the details of any Special Incentive Programs as set forth in Section 4.5 hereto and related addendums; (c) any proposals, premium rates and risk sharing arrangements presented to Groups; and (d) 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 31st of the same year. Thereafter this Agreement shall automatically renew for one (1) year periods, 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 Section 5.7 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. 5.18 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:

600 Grant Street

US Steel Tower, 25th Floor

Pittsburgh, PA 15219

Attention: Producer Relations Department

producerrelations@upmc.edu

Fax: 1-877-892-0234

To Producer:

As set forth on signature page.

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 law 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 4.8, 4.13, 5.18, 5.19, 8, 9 (including all subparts), 11 (including all subparts), 12, and 14 (including all subparts) shall survive termination of this Agreement.

PRODUCER AGREEMENT SIGNATURE PAGE - COMMERCIAL

IN WITNESS WHEREOF, UPMC HEALTH PLAN, INC., UPMC HEALTH OPTIONS, INC., UPMC HEALTH COVERAGE, 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 Attachment 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 HP

By: *Kimberly L. Cepullio*

Print Name: Kimberly L. Cepullio

Print Title: Vice President, Sales & Account Management

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: _____
Signature Required

Print Name: _____

Date: _____

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-Producer as a Producer/Writing Agent for UPMC HP.

GENERAL AGENT

By: _____ Address: ARMS Insurance Group LLC
Signature Required

3000 Lento Boulevard
Bethel Park, PA 15102

Print Name: Robert J. Rionda III.

Date: _____