

**CONNECTICARE OF MASSACHUSETTS, INC.**

**PRODUCER AGREEMENT**

This Agreement is made this \_\_\_\_ day of \_\_\_\_\_ 201\_ by and between ConnectiCare of Massachusetts, Inc., a Massachusetts for-profit corporation, on behalf of itself and its "Affiliates" (as defined below) (hereinafter "CMI") and \_\_\_\_\_, with its principal office at \_\_\_\_\_ (hereinafter referred to as "Producer/Corporate Producer")

**RECITALS**

WHEREAS, CMI is a health maintenance organization possessing a certificate of authority to conduct such business in the Commonwealth of Massachusetts and providing prepaid health benefit plans to Members, and administers self-funded health benefit plans; and

WHEREAS, Producer is an individual engaged in the solicitation and sale of Plans on behalf of CMI; and Corporate Producer employs or contracts with individual Producers who are engaged in the solicitation and sale of Plans and servicing of such Plans on behalf of CMI.

NOW THEREFORE, in consideration of the premises and the mutual promises herein stated, it is expressly agreed by and between the parties hereto as follows:

**DEFINITIONS**

"Affiliates" means, with respect to CMI, any corporation, partnership or other legal entity (including any Plan), directly or indirectly owned or controlled by, or which owns or controls, or which is under common ownership or control, with CMI.

"Covered Services" means those medical, surgical, hospital and other health care services or supplies which are medically necessary and generally and customarily provided in the service area and in accordance with the applicable Plan or dental services covered under a Connecticut-issued dental plan.

"Group" means the employer or association offering health benefit Plans to its employees.

"Group Membership Agreement" means the written document entered into between CMI and an individual, employer, labor union, trust, or other organization ("Group") that sets forth the terms and conditions that must be followed in order for Members to obtain benefits for health care services.

"Member" means any individual or dependent of such individual eligible to receive health care services according to the terms and conditions of and individual health insurance policy or a Group Membership Agreement or applicable Plan document.

"Plan" means any group or individual contract, arrangement, governmental program or other health benefit plan issued, administered or serviced by CMI including, but not limited to, HMO, POS, and self-insured plans.

## TERMS

1. Agreement for Solicitation and Sale of ConnectiCare Plans. Subject to the terms and conditions of this Agreement and applicable Massachusetts laws, Producer agrees to solicit and sell Plans on behalf of CMI. Producer agrees that it shall not engage in any solicitation, negotiation, sell or otherwise effect any contracts for Plans on behalf of CMI unless and until CMI has issued Producer a direct written appointment as required by applicable law.
  - (a) Representation and Warranty of Producer to State Licensure. Individual Producer represents and warrants that he/she has a current valid license to solicit, sell, negotiate and otherwise effect a contract for Plans on behalf of CMI and that the Producer is in compliance with all applicable federal, state and local laws and shall remain in such compliance during the term of this Agreement.
  - (b) Representation and Warranty of Corporate Producer as to State Licensure. Corporate Producer represents and warrants that Corporate Producer and each individual employed by or contracted with Corporate Producer to solicit and sell Plans for CMI has a current valid license to solicit, sell, negotiate and otherwise effect a contract for Plans on behalf of CMI. Corporate Producer further represents, warrants and agrees that Corporate Producer has taken all necessary steps to ensure that each Individual Producer is in compliance with all applicable federal, state and local laws and that each such Producer remain in compliance during the term of this Agreement.
  - (c) Producer of Record. Producer shall provide documentation acceptable to CMI indicating that he/she is the Producer of Record for all Groups with whom he/she represents with respect to the purchase, sale and servicing of Plan(s).
  - (d) CMI Reservation of Rights. CMI expressly reserves the right to engage in direct independent solicitation and sales of Plans on its own behalf and to engage the services of such brokers, employees and representatives as it deems necessary or desirable to directly solicit and sell Plans for CMI and Producer shall not be entitled to any commissions arising from such direct solicitation and/or sale of such Plans. If Producer increases the number of Members covered under a Plan obtained directly by CMI by adding a new division or entity of a Group to such Plan(s) or if Producer assists CMI in replacing another plan with CMI's Plan(s), the Producer may be paid a commission at the sole discretion of CMI.

2. Responsibilities of Producer. The Producer shall use its best efforts to solicit and sell Plans on behalf of CMI. The Producer shall adhere at all times to the established policies, rules and procedures of CMI and all applicable laws and regulations. The Producer shall cause each applicant for a Plan to execute an application, which shall be in such form as specified by CMI, and as modified by CMI from time to time. The Producer shall inform the applicant that such application, with or without payment by applicant, is not effective until approved in writing by CMI and a contract or Plan is issued to the applicant in accordance with the underwriting rules and practices of CMI and all applicable laws and regulations. The Producer shall deliver the executed application to CMI, and CMI shall determine whether to accept or reject the applicant. CMI may, in its sole discretion, reject any applicant, notwithstanding such applicant's fulfillment of stated acceptance criteria. If an applicant is rejected, ConnectiCare shall return the premium payment(s), if any, submitted with the application directly to the applicant, with an explanation as to the reason(s) for declination.

The Producer may receive only the initial premium payment for a Plan. The Producer shall directly and immediately upon receipt thereof forward the initial premium payment in full to CMI without prior deduction or setoff. After the initial premium payment, all other premium payments shall be delivered to CMI directly from the Group or an individual. Nothing in this Agreement shall be construed to give the Producer any right, interest, title or proprietary right or control over any premium payments received or collected by any Producer.

3. Commissions. In consideration for the services of Producer, CMI shall pay Producer, as applicable, commission payments in accordance with Appendix 1 attached hereto and made a part hereof.
4. Advertising. The Producer will not undertake any advertising or general solicitation for any Plan without the prior written appointment by CMI. Except as provided otherwise herein, Producer shall not use CMI's name, symbols, trademarks or service marks in advertising or promotional materials without the prior written consent of CMI and shall cease any such usage immediately upon written notice or upon termination of this Agreement, whichever is sooner.
5. Modification of Plans. CMI, in its sole discretion, may at any time cease to offer a Plan, amend a Plan, modify a Plan, or otherwise revise a Plan.
6. Term, Termination. The term of this Agreement shall commence as of the date first written above and shall continue for a period of one-year following such date. Thereafter, this Agreement shall automatically renew for successive terms of one year unless terminated by either party pursuant to this Section 6.

Either party may terminate this Agreement, without cause, upon ninety (90) days notice in writing to the other party and such termination shall become effective ninety (90) days after the date the notice was sent.

Notwithstanding the foregoing, CMI may terminate this Agreement, or require Corporate Producer to terminate its contract with any Individual Producer for purposes of soliciting, and selling of Plans on behalf of CMI, immediately upon giving the Producer written notice of termination upon the occurrence of one of the following events: (a) Producer appropriates for its own use any Plan premium(s) received or collected for or on behalf of

CMI or fails to remit said payment(s) to CMI immediately and directly under the terms of this Agreement; (b) the failure of Producer to maintain licensure, the arrest or conviction of such Producer (or plea of guilty or no contest by such Producer) to any criminal offense which in the opinion of CMI impairs that Producer's ability to represent CMI effectively; (c) the Producer misrepresents health benefits, eligibility, products or coverage to applicants, misrepresents applicants or utilization data to CMI, falsifies applications to CMI, knowingly falsifies information to circumvent CMI individual or group underwriting guidelines or otherwise acts against the best interests of CMI as determined by CMI; (d) the Producer otherwise violates any other term or condition of this Agreement; or (e) the dissolution, bankruptcy, insolvency, assignment for the benefit of creditors, reorganization, liquidation of or the appointment of a trustee or receiver for Producer.

Following notice of termination, Producer shall not write or bind any new business on behalf of CMI.

7. Errors and Omissions Insurance. As a condition of appointment, Producer/Corporate Producer shall maintain errors and omissions insurance in such form and amount as may be reasonably required or approved by CMI.
8. Confidentiality. CMI shall not, and shall not be required to, disclose to Producer/Corporate Producer any information concerning an individual or its claims (or of the individual's covered dependents) or of a Group's employees or their claims except as permitted by applicable state and federal laws governing the disclosure of such information. Attached hereto is a Business Associate Agreement which must be signed by the Producer before any Group employee's or dependent's protected health information or related claims information may be provided to Producer to assist a Group with a particular issue.
9. Indemnification. Producer/Corporate Producer agrees to indemnify, defend and hold harmless CMI against any and all losses, liabilities, damages, penalties and expenses, including attorney's fees, and other costs and obligations which result from, or arise out of, any administrative proceeding, claim, lawsuit, demand, settlement or judgment brought against CMI resulting from or arising out of (i) Producer/Corporate Producer's performance or non-performance of its obligations under this Agreement or, (ii) any breach, intentional or otherwise, by Producer/Corporate Producer of a provision of this Agreement or of any representation or warranty of Producer/Corporate Producer contained in this Agreement.

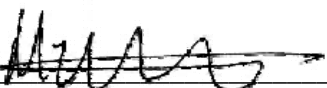
10. Entire Agreement. This Agreement supersedes all prior negotiations, agreements and understandings, whether oral or written, between the parties with respect to the subject matter hereof and shall not be waived, altered or amended except by a document signed by a duly authorized representative of each party. The parties reserve the right to amend or terminate this Agreement in accordance with the terms set forth in this Agreement without notice to or the consent of any Group or Member.
  
11. Assignment. Producer/Corporate Producer shall not assign any of its rights or delegate any of its duties under this Agreement without the prior written consent of CMI. CMI shall have the unilateral power to assign this Agreement in whole or in part to one or more of CMI's affiliates or successor corporations.
  
12. Waiver. No failure or delay on the part of either party in exercising any right or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or of any other right or remedy. All rights and remedies under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.
  
13. Miscellaneous. The provisions of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Nothing in this Agreement shall be construed as creating a relationship of partners, joint venturers, employer and employee, or any relationship other than that of independent entities contracting with each other solely for the purpose of carrying out the terms and conditions of this Agreement. This Agreement shall be binding upon and shall insure to the benefit of the parties and their successors and permitted assigns. Nothing in this Agreement shall be deemed to create any rights or remedies in any third party. If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect the other provisions of this Agreement which can be given effect without such invalid provision.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective the day and year first above written.

**ConnectiCare of Massachusetts, Inc.,**

**Individual Producer/Corporate  
Producer**

**on behalf of itself and its Affiliates**

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

Michelle Zettergren

Title: SVP Chief Sales & Marketing Officer

Date 5/10/11 \_\_\_\_\_

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
Social Security Number/ Tax I.D. Number

Signed by: \_\_\_\_\_  
(Signature of Above)

Title \_\_\_\_\_

Date \_\_\_\_\_

## APPENDIX 1

### PRODUCER AGREEMENT COMMISSIONS

#### 1. Terms and Conditions

- a. In consideration for the services of Individual Producer and/or Corporate Producer, CMI agrees to pay to the Individual Producer or Corporate Producer, a commission in the amount provided in the "Commission Schedule" below. It is understood and agreed that a commission shall be deemed earned by the Producer upon ConnectiCare's execution of a Plan and CMI's receipt of premium(s) from the Plan. Commissions will be payable in the month following the receipt of such premiums by CMI.
- b. If an application is rejected by CMI, no commissions shall be owed and payable by CMI. Commissions stated in the "Commission Schedule" are subject to change at the sole option of CMI. Any reduction in commissions is subject to prior notice in writing to the Producer. Prior written notice of a change in commissions may be in the form of a new "Commission Schedule", effective as of the date stated thereon.
- c. No commissions will be paid by CMI on Plans that have been written off by CMI after reasonable efforts to collect such premiums have failed. Also, should CMI receive a premium payment after such Plan has been written off, CMI shall have no obligation to pay any commission on such premium payment.
- d. The Corporate Producer shall be solely responsible for distribution of all or any part of the commissions earned hereunder to its Individual Producers, and CMI shall have no obligation to pay any commission directly to any such Individual Producer. CMI shall be responsible only for the payment of commissions and not for any other expenses or liabilities incurred by any Producer in connection with the solicitation, sale or servicing of Plans.

#### 2. Commission Schedule

The Commission Schedule shall be as set forth in the current Commission and Incentive Bonus Programs document.