



AETNA PRODUCER AGREEMENT

This Aetna Producer Agreement (this “Agreement”) is between Producer (“Producer” means agent, subagent, broker, or any other term used to describe a person who is licensed to negotiate, solicit or sell insurance) and Aetna Health Management, LLC, a Delaware limited liability company, on behalf of itself and its affiliates (collectively, “Company”). This Agreement is effective as of the date Producer is notified of approval by Company (“Agreement Effective Date”).

A. DUTIES AND AUTHORITY OF PRODUCER

1. Producer is authorized to solicit sales for the products included in each applicable product addendum (“Company Products”), and to take such actions as are authorized by the terms of this Agreement together with such actions as are reasonably incidental thereto. Producer’s authority under this Agreement is non-exclusive.
2. Producer agrees to secure and maintain such licenses and appointments as are necessary to transact business on behalf of Company and as required by any state or jurisdiction where Producer solicits sales of any Company Products. Producer further agrees to notify Company immediately of any expiration, termination, suspension or other action by a regulator or any other governmental agency affecting said license or appointment. Producer further agrees to notify Company in writing immediately upon receiving notice of any criminal charges or convictions by any governmental authority for commission of any act involving fraud, dishonesty, breach of trust, or theft.
3. Producer agrees to comply with the rules of Company relating to completion and submission of applications of Company Products and to make no representation with respect to the benefits of any insurance contract or policy offered by Company not in conformity with the material prepared and furnished to Producer by Company. Producer shall use best efforts to ensure that each application for coverage is truthfully completed by the applicant and the completed application accurately reflects and discloses the circumstances, including the health condition, if applicable, of persons for whom coverage is sought in the application. For underwritten Company Products, Producer further agrees to inform every applicant that Company will rely upon the applicant’s health representations in the underwriting process, and that the subsequent discovery of material facts known to applicant and either not disclosed or misrepresented may result in the rescission of any insurance contract or policy issued by Company. Producer will also inform the applicant that in no event will the applicant have any coverage unless the application is approved by the Company and an insurance contract or policy is issued.
4. Producer agrees to participate in any and all seminars, online training courses, and other education programs that Company may require from time to time. To the extent Company requires Producer to certify to the completion of such programs, or to obtain a minimum score in a program that contains an examination, the Producer must so certify or obtain such score.
5. Company shall have the right, upon reasonable prior notice to Producer, to inspect, review and copy, during regular business hours and at no cost to the Company, any books and records Producer maintains pursuant to this Agreement and/or in connection with the services performed under this Agreement. Producer agrees to reasonably assist Company, at no cost to the Company, to ensure Company’s compliance with all applicable laws, rules or regulations that relate to the applicable Company Products and in connection with any regulatory inquiries or proceedings related to the matters contained in this Agreement.
6. Producer agrees to comply, and will cause its principals, employees and subcontractors to comply, with any and all applicable state and federal laws and regulations. Additionally, Producer agrees to comply, and will cause its principals, employees and subcontractors to comply with Company’s code of conduct and Company’s policies.
7. Producer agrees that it does not and will not discriminate on the basis of race, color, national origin, disability, age, sex, gender identity, sexual orientation, or health status in its performance under this Agreement.

8. Producer is an independent contractor and shall have no claim to commissions or other compensation except as may be provided in this Agreement and Producer shall not be entitled to reimbursement from Company for any expenses incurred in performing any of its obligations under this Agreement.
9. Producer will treat as confidential and trade secrets any and all information concerning customers of Company or its business, products, techniques, strategies, methods, systems, price-books, rating tools, plans or policies. Producer shall not, without Company's prior written approval, provide customer information to any employee, agent, subcontractor or other person, if such employee, agent, subcontractor or other person will receive, process, or otherwise has access to such information outside of the United States. Producer will not, during the term of this Agreement or at any time thereafter, disclose such information, in whole or in part, to any person, firm or corporation for any reason or purpose whatsoever, or use such information in any way or in any capacity, other than as authorized under this Agreement for the performance of the services under this Agreement. Producer further agrees to comply with the Business Associate Agreement attached to, and incorporated by reference into, this Agreement.
10. Producer shall not broadcast, publish or distribute any advertisements or other material using the name, trademark or logo of Company in any way (other than Company produced advertising and marketing materials) without Company's prior written consent.
11. Producer is not authorized to enter into, alter, or terminate any form, insurance contract or policy on behalf of Company, extend the time of payment of any charges or premiums, or bind Company in any way.
12. Producer and subcontractors or other persons purporting to work on their behalf shall comply with all applicable laws regarding (i) the recording and/or monitoring of telephone calls, (ii) audible notice requirements regarding the recording and/or monitoring of telephone calls (including notifying such individual or entity at the inception of the call that such calls will be recorded and monitored), (iii) obtaining consent at the inception of the recording and/or monitoring of telephone calls, (iv) the storage, privacy, security and destruction of any recorded telephone calls; and/or (v) performing autodialed or prerecorded calls, sending text messages, and outreaching to individuals on internal or external do not call lists. Producer and subcontractors or other persons purporting to work on their behalf shall:
 - a. scrub on a daily basis, all phone numbers against federal, state and Producer's and Company's internal do not call lists in accordance with applicable law. Producer will ensure that any requests from a member to be placed on Producer's "do not call" lists are implemented within ten (10) business days from member's request; Producer will ensure that any requests from a member to be placed on Company's "do not call" lists are shared with the Company within five (5) business days;
 - b. maintain records regarding compliance with call abandonment rates in accordance with all telemarketing laws and regulations that now or hereafter govern telemarketing;
 - c. implement written policies and procedures designed to ensure full compliance with the laws and regulations that now or hereafter govern telemarketing;
 - d. train personnel involved in compliance with all laws and regulations that now or hereafter govern telemarketing;
 - e. document all steps to meet and maintain compliance with all aspects of the laws and regulations that now or hereafter govern telemarketing; and
 - f. provide, upon Company's request, any documentation, policies and procedures of Producer or subcontractors related to telemarketing. Such review does not, and shall not be construed to, constitute approval or endorsement of any telemarketing practices by Producer and such review shall not be deemed to excuse or alleviate Producer from its independent duty of compliance with the law or indemnification hereunder.

For purposes of this Agreement, the term "telemarketing" means all forms of telemarketing subject to state or federal regulation, including but not limited to telemarketing as regulated under the Telephone Consumer Protection Act, 43 U.S.C. §227 et seq. (the "TCPA") and all state or local laws, rules and ordinances that regulate telemarketing, as well as all forms of telemarketing subject to the Telemarketing Sales Rule (16 CFR Part 310) as amended by the Federal Trade Commission (the rules and interpretations promulgated by the Federal Communication Commission under the TCPA, and where applicable, the requirements established by CMS.

13. Producer agrees to obtain and maintain Errors and Omissions Insurance coverage with minimum amounts of \$1,000,000 per incident and \$3,000,000 in aggregate, or such higher amounts as may be required by law or as determined by Company, and from a carrier satisfactory to Company. Producer shall provide to Company, upon request, certificates of insurance evidencing such coverage. Producer agrees to make best efforts to provide Company with notice as soon as reasonably practicable of any modification, termination or cancellation of such coverage.

B. TERM AND TERMINATION; REMEDIAL ACTIONS

1. This Agreement or any of the product addenda may be terminated at any time by either party for any reason or no reason, upon giving thirty (30) days prior written notice to the other party.
2. Company may terminate this Agreement or any of the product addenda for cause immediately upon written notice to Producer at any time due to any of the following actions by Producer as determined by Company in its sole discretion:
 - a. A breach of one or more of the material obligations under this Agreement;
 - b. A breach of trust, fraudulent, dishonest or illegal act;
 - c. A violation of any of the laws, rules or regulations or termination by any governmental authority with jurisdiction over Producer, or Producer's failure to notify Company in writing regarding any such violation;
 - d. A failure to cooperate with the Company's investigation of a complaint involving Producer;
 - e. Producer's failure to pay any amount owed to Company;
 - f. Producer acts in a manner that is detrimental to Company or its employees, including but not limited to, engaging in harassing or abusive conduct directed at Company or its employee(s);
 - g. Producer causes an unacceptable number of complaints as determined by Company in its sole discretion;
 - h. Producer's noncompliance or violation of Company's code of conduct or Company's policies;
 - i. Producer's failure to implement a corrective action plan as directed by and to the satisfaction of the Company; or
 - j. Producer is terminated for cause by Company or one of Company's affiliates under another agreement with Company or Company's affiliates.

Termination for cause shall not be Company's exclusive remedy, but shall be cumulative with all other remedies available at law or in equity. A failure to terminate this Agreement for cause shall not be a waiver of the right to do so with respect to any past, current or future default. In the event that Producer is terminated by Company or one of Company's affiliates under another agreement with Company or Company's affiliates, Company may terminate this Agreement with Producer in accordance with the termination provisions of this Section B.

3. This Agreement will automatically terminate:
 - a. upon the death of Producer, if Producer is an individual;
 - b. upon the dissolution of the legal entity, if Producer is a legal entity; or
 - c. upon the Company's employment of Producer as an employee, such Producer shall not be entitled to any further compensation under this Agreement, unless otherwise agreed to by Company in writing.

Notwithstanding the foregoing, this Section 3 shall not prohibit a Producer who is not a licensed only producer ("LOA") from transferring its ownership interests in a legal entity or otherwise transferring its book of business prior to the termination of this Agreement. Producer must notify Company promptly and provide evidence. Evidence for transferring book of business may include, but is not limited to, copy of the relevant purchase agreement, state filings evidencing the book of business transfer or such other evidence requested by Company in its sole discretion. Evidence must include the names and TINs of each of the parties and entities to the transaction, a description of what is being transferred, and the effective date of the transfer.

4. If Company believes it may have the right to terminate this Agreement for cause or Company receives a complaint against the Producer, Company may notify Producer that it is suspending this Agreement while it investigates whether cause for termination exists. This suspension may be imposed in place of terminating this Agreement in order to provide time for determining the facts. Until a suspension is withdrawn by Company, it has the same effect on Producer's rights to compensation and authority to represent Company hereunder as does termination of this Agreement. Company will notify Producer whether the suspension is to be withdrawn or this Agreement is to be terminated. If the suspension is withdrawn, all accumulated compensation will be paid to the Producer. No interest shall be payable on any compensation withheld under this Section and subsequently paid. If this Agreement is terminated for cause or as a result of termination by any governmental authority, the termination shall take effect as of the date Producer was sent the notice of suspension, and no further compensation shall be due or payable hereunder for any reason after the date of termination. If this Agreement is terminated without cause by Company during a suspension of payments, any suspended payments will be paid to Producer, except for any payments arising from activities prohibited by this Agreement or applicable laws.

C. SETTLEMENT OF DISPUTES

1. Any controversy or claim arising out of or relating to this Agreement or the breach, termination or validity thereof, except for temporary, preliminary or permanent injunctive relief or any other form of equitable relief, shall be settled by binding arbitration, held in a location mutually agreed to by the parties, and ministered by the American Arbitration Association ("AAA") and conducted by a sole arbitrator in accordance with the AAA's Commercial Arbitration Rules ("Rules"). The arbitration shall be governed by the Federal Arbitration Act, 9 U.S.C. §§ 1-16, to the exclusion of state laws inconsistent therewith or that would produce a different result, and judgment on the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. Except as may be required by law or to the extent necessary in connection with a judicial challenge, or enforcement of an award, neither a party nor the arbitrator may disclose the existence, content, record or results of an arbitration to a third party. Fourteen (14) calendar days before the hearing, the parties will exchange and provide to the arbitrator:
 - a. a list of witnesses they intend to call (including any experts) with a short description of the anticipated direct testimony of each witness and an estimate of the length thereof, and
 - b. pre-marked copies of all exhibits they intend to use at the hearing. Depositions for discovery purposes shall not be permitted. The arbitrator may award only monetary relief and is not empowered to award damages other than compensatory damages, including awarding any future compensation. The decision of the arbitrator shall be final and binding upon the parties without appeal.

D. GENERAL TERMS

1. This Agreement is not assignable by either party without the prior written consent of the other party; provided, however, that Company may assign this Agreement, in whole, or in part, to an affiliate or successor in interest without consent, upon written notice to Producer.
2. This Agreement, including all applicable exhibits, attachments, addenda, compensation schedules, and any other referenced documents, constitutes the entire contract between the parties, and the parties acknowledge and agree that all such documents are hereby incorporated into and made a part of this Agreement.
3. This Agreement shall be governed by the laws of the state of Connecticut.
4. Company shall not be liable to Producer for any indirect, incidental, punitive, exemplary, special or consequential damages of any kind.
5. Notwithstanding the termination provisions of this Agreement, the provisions of this Agreement necessary to carry out the intention of the parties as expressed herein, including without limitation those in Sections A(5), A(8) and A(9), Section C, and Sections D(3), D(4), D(5), D(6) and D(7), shall survive the termination or expiration of this Agreement.
6. Company may amend this Agreement, in whole or in part, upon prior notice to Producer. Notwithstanding the foregoing sentence, in the event of the enactment of any law or regulation, or any order or direction of any governmental agency which impacts this Agreement, Company may amend this Agreement, in whole or in part, immediately and without prior notice to Producer in order to achieve compliance with such law, regulation, order or direction.
7. Producer shall indemnify, defend and hold Company, and its directors, officers and employees harmless from and against any loss, damage or expense, including reasonable attorneys' fees, caused by or arising from the negligence, misconduct or breach of this Agreement by Producer or any of its agents' or subcontractors' actions or omissions, including, but not limited to, the failure of Producer or any of its agents or subcontractors (or other persons purporting to act on any of their behalf) to comply with any applicable laws, and the use of automatic dialing systems, artificial or prerecorded voice messages, SMS text messages, or fax machines in a manner that is inconsistent with applicable laws.

AETNA

By: _____

Name: _____

Title: _____

Date: _____

Producer

By: _____

Name: _____

Title: _____

Date: _____

BUSINESS ASSOCIATE AGREEMENT
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

This Business Associate Agreement (the “BAA”) is made by and between Company (hereinafter the “Covered Entity”) and Producer (hereinafter the “Business Associate”), and is effective as of the Agreement Effective Date). This BAA is attached to and incorporated into the Agreement. All capitalized terms used herein but not otherwise defined shall have the meanings given to such terms elsewhere in the Agreement. In conformity with the regulations at 45 C.F.R. Parts 160-164 (the “Privacy and Security Rules”), Covered Entity will provide Business Associate with access to, or have Business Associate create, maintain, transmit and/or receive certain Protected Health Information (as defined below), thus necessitating a written agreement that meets the applicable requirements of the Privacy and Security Rules. Covered Entity and Business Associate agree as follows:

1. **Definitions.** The following terms shall have the meaning set forth below:

- a. ARRA. “ARRA” means the American Recovery and Reinvestment Act of 2009
- b. Breach. “Breach” has the same meaning as the term “breach” in 45 C.F.R. 164.402.
- c. C. F. R. “C.F. R.” means the Code of Federal Regulations.
- d. Designated Record Set. “Designated Record Set” has the meaning assigned to such term in 45 C. F. R. 160.501.
- e. Discovery. “Discovery” shall mean the first day on which a Breach is known to Business Associate (including any person, other than the individual committing the breach, that is an employee, officer, or other agent of Business Associate), or should reasonably have been known to Business Associate, to have occurred.
- f. Electronic Protected Health Information. “Electronic Protected Health Information” means information that comes within paragraphs 1 (i) or 1 (ii) of the definition of “Protected Health Information”, as defined in 45 C. F. R. 160.103.
- g. Individual. “Individual” shall have the same meaning as the term “individual” in 45 C. F. R. 160.103 and shall include a person who qualifies as personal representative in accordance with 45 C. F. R. 164.502 (g).
- h. Protected Health Information. “Protected Health Information” shall have the same meaning as the term “Protected Health Information”, as defined by 45 C. F. R. 160.103, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
- i. Required by Law. “Required by Law” shall have the same meaning as the term “required by law” in 45 C. F. R. 164.103.
- j. Secretary. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
- k. Security Incident. “Security Incident” shall have the same meaning as the term “security incident” in 45 C.F.R. 164.304.
- l. Standard Transactions. “Standard Transactions” means the electronic health care transactions for which HIPAA standards have been established, as set forth in 45 C. F. R., Parts 160-162.
- m. Unsecured Protected Health Information. “Unsecured Protected Health Information” means Protected Health Information that is not secured through the use of a technology or methodology specified by guidance issued by the Secretary from time to time.

2. **Obligations and Activities of Business Associate.**

- a. Business Associate agrees to not use or further disclose Protected Health Information other than as permitted or required by this BAA or as Required by Law. Business Associate shall also comply with any further limitations on uses and disclosures agreed by Covered Entity in accordance with 45 C.F.R. 164.522 provided that such agreed upon limitations have been communicated to Business Associate in accordance with Section 4.1(c) of this BAA.
- b. Business Associate agrees to use appropriate safeguards to prevent use or disclosure of the Protected Health Information other than as provided for by this BAA, including but not limited to the safeguards described in Section 2(m) of this BAA.
- c. Business Associate agrees to mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this BAA.
- d. Business Associate agrees to promptly report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this BAA of which it becomes aware.
- e. Business Associate agrees to report to Covered Entity any Breach of Unsecured Protected Health Information without unreasonable delay and in no case later than five (5) Business days after Discovery of a Breach. Such notice shall include the identification of each Individual whose Unsecured Protected Health Information has been, or is reasonably believed by Business Associate, to have been, accessed, acquired, or disclosed in connection with such Breach. In addition, Business Associate shall provide any additional information reasonably requested by Covered Entity for purposes of investigating the Breach. Business Associate's notification of a Breach under this section shall comply in all respects with each applicable provision of Section 13400 of Subtitle D (Privacy) of ARRA, 45 CFR 164.410, and related guidance issued by the Secretary from time to time. Without limiting Covered Entity's remedies under Section 6 or any other provision of this BAA, in the event of a Breach involving Unsecured Protected Health Information maintained, used or disclosed by Business Associate, Business Associate shall reimburse Covered Entity for the cost of providing any legally required notice to affected Individuals and the cost of credit monitoring for such Individuals to extent deemed necessary by Covered Entity in its reasonable discretion.
- f. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, Business Associate agrees to ensure that any subcontractors that create, receive, maintain, or transmit Protected Health Information on behalf of Business Associate agree in writing to the same restrictions and conditions that apply through this BAA to Business Associate with respect to such information. In no event shall Business Associate, without Covered Entity's prior written approval, provide Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, to any employee or agent, including a subcontractor, if such employee, agent or subcontractor receives, processes or otherwise has access to the Protected Health Information outside of the United States.
- g. Business Associate agrees to provide access, at the request of Covered Entity, within ten (10) business days of the request from Covered Entity, to Protected Health Information in a Designated Record Set, to Covered Entity or, as directed by Covered Entity, to an Individual in order to meet the requirements under 45 C.F.R. 164.524. Covered Entity's determination of what constitutes "Protected Health Information" or a "Designated Record Set" shall be final and conclusive. If Business Associate provides copies or summaries of Protected Health Information to an Individual it may impose a reasonable, cost-based fee in accordance with 45 C.F.R. 164.524 (c)(4).
- h. Business Associate agrees to make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of Covered Entity or an Individual, within ten (10) business days of a request by Covered Entity. Business Associate shall not charge any fee for fulfilling requests for amendments. Covered Entity's determination of what Protected Health Information is subject to amendment pursuant to 45 C.F.R. 164.526 shall be final and conclusive.
- i. Business Associate agrees to make (i) internal practices, books, and records, including policies and procedures, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity, and (ii) policies, procedures, and documentation relating to the safeguarding of Electronic Protected Health Information available to the Covered Entity, or at the request of the Covered Entity to the Secretary, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's or Business Associate's compliance with the Privacy and Security Rules.

- j. Business Associate agrees to document such disclosures of Protected Health Information as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528.
- k. Business Associate agrees to provide to Covered Entity, in the time and manner described below, the information collected in accordance with Section 2(j) of this BAA, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. 164.528. Business Associate agrees to provide such information to Covered Entity within thirty (30) business days of receipt of a request from Covered Entity.
- l. Business Associate acknowledges that it shall request from the Covered Entity and so disclose to its affiliates, agents and subcontractors or other third parties, (i) the information contained in a "limited data set," as such term is defined at 45 C.F.R. 164.514(e)(2), or, (ii) if needed by Business Associate, to the minimum necessary to accomplish the intended purpose of such requests or disclosures. In all cases, Business Associate shall request and disclose Protected Health Information only in a manner that is consistent with guidance issued by the Secretary from time to time.
- m. With respect to Electronic Protected Health Information, Business Associate shall implement and comply with (and ensure that its subcontractors implement and comply with) the administrative safeguards set forth at 45 C.F.R. 164.308, the physical safeguards set forth at 45 C.F.R. 310, the technical safeguards set forth at 45 C.F.R. 164.312, and the policies and procedures set forth at 45 C.F.R. 164.316 to reasonably and appropriately protect the confidentiality, integrity, and availability of the Electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of Covered Entity. Business Associate acknowledges that, (i) the foregoing safeguard, policies and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to Covered Entity, and (ii) Business Associate shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguard, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements.
- n. With respect to Electronic Protected Health Information, Business Associate shall ensure that any subcontractors that create, receive, maintain, or transmit Electronic Protected Health Information on behalf of Business Associate, agree to comply with the applicable requirements of Subpart C of 45 C.F.R. Part 164 by entering into a contract that complies with 45 C.F.R. Section 164.314.
- o. Business Associate shall report to Covered Entity any Security Incident of which it becomes aware, including Breaches of Unsecured Protected Health Information as required by 45 C.F.R. Section 164.410.
- p. If Business Associate conducts any Standard Transactions on behalf of Covered Entity, Business Associate shall comply with the applicable requirements of 45 C.F.R. Parts 160-162.
- q. During the term of this BAA, Business Associate may be asked to complete a security survey and/or attestation document designed to assist Covered Entity in understanding and documenting Business Associate's security procedures and compliance with the requirements contained herein. Business Associate's failure to complete either of these documents within the reasonable timeframe specified by Covered Entity shall constitute a material breach of this BAA.
- r. Business Associate acknowledges that, as of the Agreement Effective Date, it shall be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 1320d-5 and 1320d-6, as amended from time to time, for failure to comply with any of the use and disclosure requirements of this BAA and any guidance issued by the Secretary from time to time with respect to such use and disclosure requirements.
- s. To the extent Business Associate is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, Business Associate shall comply with the requirements of Subpart E that apply to Covered Entity in the performance of such obligation(s).
- t. To the extent that Business Associate provides services to Covered Entity relating to individuals enrolled in state or federal programs (e.g., Medicare or Medicaid), Business Associate shall comply with any additional restrictions or requirements related to the use, disclosure, maintenance, and protection of Protected Health Information of individuals enrolled in such programs through Covered Entity. With respect to the Protected Health Information of Medicare enrollees, Business Associate shall report privacy and security incidents and/or Breaches immediately, but not later than five (5) day, to Covered Entity and include the information required under this Section 2 of this Addendum.

3. Permitted Uses and Disclosures by Business Associate.

3.1 General Use and Disclosure. Except as otherwise limited in this BAA, Business Associate may use or disclose Protected Health Information to perform its obligations and services to Covered Entity, provided that such use or disclosure would not violate the Privacy and Security Rules if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3.2 Specific Use and Disclosure Provisions.

- a. Except as otherwise prohibited by this BAA, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.
- b. Except as otherwise prohibited by this BAA, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached in accordance with the Breach and Security Incident notifications requirements of this BAA.
- c. Business Associate shall not directly or indirectly receive remuneration in exchange for any Protected Health Information of an Individual without Covered Entity's prior written approval and notice from Covered Entity that it has obtained from the Individual, in accordance with 45 C.F.R. 164.508, a valid authorization that includes a specification of whether the Protected Health Information can be further exchanged for remuneration by Business Associate. The foregoing shall not apply to Covered Entity's payments to Business Associate for services delivered by Business Associate to Covered Entity.
- d. Business Associate shall not de-identify any Protected Health Information except as authorized by Covered Entity to provide data aggregation services to Covered Entity as permitted by 42 C.F.R. 164.504(e)(2)(i)(B).
- e. Business Associate may use Protected Health Information to report violation of law to appropriate Federal and State authorities, consistent with 164.502 (j)(1).

4. Obligations of Covered Entity.

4.1 Provisions for Covered Entity to Inform Business Associate of Privacy Practices and Restrictions.

- a. Covered Entity shall notify Business Associate of any limitation(s) in Covered Entity's notice of privacy practices that Covered Entity produces in accordance with 45 C.F.R. 164.520 (as well as any changes to that notice), to the extent that such limitation(s) may affect Business Associate's use or disclosure of Protected Health Information.
- b. Covered Entity shall provide Business Associate with any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes affect Business Associate's use or disclosure of Protected Health Information.
- c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 C.F.R. 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

4.2 Permissible Requests by Covered Entity. Except as may be set forth in Section 3.2, Covered Entity shall not request Business Associate to use or disclose Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity.

5. Term and Termination.

- a. Term. The provisions of this BAA shall take effect on the Agreement Effective Date and shall terminate as set forth in Section 5(b) below.
- b. Termination. Termination shall be governed by Section B of the Agreement.
- c. Effect of Termination.
 - i. Except as provided in Section 5(c), upon termination of this BAA, for any reason, Business Associate shall return or destroy all Protected Health Information received from Covered Entity, or created, maintained, transmitted or received by Business Associate on behalf of Covered Entity. This provision shall apply to Protected Health Information that is in the possession of subcontractors or agents of Business Associate. Business Associate shall retain no copies of the Protected Health Information.
 - ii. In the event the Business Associate determines that returning or destroying the Protected Health Information 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 Protected Health Information is infeasible, per Section 5(a) above, Business Associate shall continue to extend the protection of this BAA to such Protected Health Information and limit further uses and disclosures of such Protected Health Information for so long as Business Associate maintains such Protected Health Information.

6. **Indemnification.** Indemnification shall be governed by the indemnification provisions set forth in Section D(7) of the Agreement.

7. **Notices.** Any notices or communications to be given under this BAA shall be made to the address and/or fax numbers given below:

To Business Associate:
To the address provided by Aetna
the Business Associate as part of the contracting process.

To Covered Entity:
HIPAA Member Rights Team
151 Farmington Avenue, RT65
Hartford, CT 06156
Fax: (859) 280-1272
Email: HIPAAFulfillment@aetna.com

Each Party named above may change its address from time to time with notice.

8. Miscellaneous.

- a. Regulatory References. A reference in this BAA to a section in the Privacy and Security Rules means the section as in effect or as amended, and for which compliance is required.
- b. Amendment. Any amendment of this BAA shall be governed by D(6) of the Agreement.
- c. Survival. The respective rights and obligations of Business Associate under Sections 5(c) and 6 of this BAA shall survive the termination of this BAA.
- d. Interpretation. Any ambiguity in this BAA shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules. In the event of any inconsistency or conflict between this BAA and any other agreement between the Parties, the terms, provisions and conditions of this BAA shall govern and control.
- e. No third party beneficiary. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations, or liabilities whatsoever.
- f. Governing Law. This BAA shall be governed by and construed in accordance with the laws of the state of Connecticut.