

Solicitor Firm Agreement

For Solicitor Firms receiving commission compensation

This Solicitor Firm Agreement together with any attachments hereto (the "Agreement") is entered into this _____ day of _____, 20____ ("Effective Date") by and between Sutter Health Plan, a California, non-profit, public benefit organization, doing business as Sutter Health Plus ("SHP"), regulated by the California Department of Managed Health Care, and _____, ("Solicitor Firm").

RECITALS

- A. SHP is licensed by the California Department of Managed Health Care (DMHC) as a health care service plan and, pursuant to such licensure, is authorized to offer DMHC-approved health care coverage products within its DMHC- approved service area.
- B. Solicitor Firm and its principal persons, employees and subcontracted agents, as applicable, are licensed by the State of California to promote, market, solicit and sell health care coverage products to individual and group subscribers, and to assist subscribers through the coverage application, underwriting and enrollment processes.
- C. SHP wishes to contract with Solicitor Firm for the provision of marketing, solicitation and sales services, and Solicitor Firm wishes to provide such services to SHP.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained in this Agreement, the parties do hereby agree as follows:

1. **Appointment of Solicitor Firm.**

SHP appoints Solicitor Firm to market, solicit and sell SHP health care coverage products as specified in this Agreement. This appointment will become effective upon execution of this agreement by both parties, and shall be subject to all of the terms and conditions set forth herein. Solicitor Firm is authorized to contract with appropriately licensed insurance agents ("Agents"), at the Solicitor Firm's expense and without any reimbursement from SHP, to perform services under this Agreement. SHP reserves the right to exclude any such Agent from performing services under this contract as provided in Section 4.1.5 and Section 6.8.

2. **Solicitor Firm Authority and Obligations (the "Services")**

- 2.1 Solicitor Firm shall, and shall cause its duly licensed principal persons, employees and Agents to use best efforts to solicit enrollment of prospective groups and individuals (as applicable) under this Agreement and assist such groups and individuals in completing and submitting applications for health care coverage products for sale to eligible groups or individuals. If at any time Solicitor Firm determines that Solicitor Firm is unable to market to a particular prospect and the Solicitor Firm can provide specific and credible reasons for the same, the Solicitor Firm will turn that prospect over to SHP for direct marketing.
- 2.2 Solicitor Firm shall, and shall cause its principal persons, employees and Agents to comply with all requirements of SHP governing the preparation, submission and processing of health care coverage applications and shall make available to SHP all information, whether favorable or unfavorable, which comes into possession of Solicitor Firm or its principal persons, employees or Agents concerning the underwriting of any risk.
- 2.3 Solicitor Firm and its principal persons, employees and Agents and its principal persons, employees and Agents will obligate SHP only to the extent authorized by this Agreement. Solicitor Firm shall take all reasonable and appropriate steps to obtain information, as deemed appropriate and pertinent by SHP. Solicitor Firm certifies that it will comply, and assures that its principal persons, employees and Agents will comply, with all the policies and procedures of SHP (including but not limited to SHP's underwriting guidelines) and with applicable federal, state or other laws and regulations governing the sale of SHP's health care coverage product(s) and the Solicitor Firm's conduct concerning the same.
- 2.4 No monies shall be payable to the Solicitor Firm, as set forth in Exhibit A, unless and until the Solicitor Firm has made a timely and accurate submission of all paperwork, as required by SHP. The submission of all required paperwork must be made at least seven (7) business days prior to the effective date of the new business, renewal business, or change in plan, or at such other time as mutually agreed to by the parties. A complete submission may include, but not be limited to, complete and accurate employer submission documents, licenses, final rates approved by the group, including a binder check in the amount of the first month's premium, fully completed enrollment forms and medical questionnaires, and any other information reasonably requested by SHP.

- 2.5 Notifications.
- 2.5.1 Solicitor Firm shall immediately notify SHP of receipt of any customer complaint or if it (or any of its principal persons, employees or Agents) is served with any paper or has knowledge of any legal or administrative action, investigation or proceeding against SHP.
- 2.5.2 Solicitor Firm shall immediately notify SHP regarding commencement of any disciplinary proceedings against Solicitor Firm or against any of its principal persons or employees including, but not limited to relating to any license issued to any such person by the California Insurance Commissioner.
- 2.6 Solicitor Firm is authorized to market SHP health care coverage products to eligible purchasers as specified in the SHP product listing, as updated from time to time by SHP on written notice to Solicitor Firm, without need for an amendment to this Agreement. For purposes of this Section, written notice by SHP shall include SHP's updating of its product listing available to Solicitor Firm at SHP website www.sutterhealthplus.org, without the necessity of additional notice under Section 22. Solicitor Firm shall affirmatively check the SHP website to confirm Solicitor Firm is aware of any changes to the SHP product listing, and shall rely on the most recent update to such website in performing Services hereunder.
- 2.7 Solicitor Firm shall supervise all Solicitor Firm principal persons, employees and Agents providing Services hereunder, and shall ensure that all such Services are provided by duly licensed individuals in compliance with all the terms and conditions of this Agreement.
- 2.8 Solicitor Firm shall assure that all contracts with Agents shall be in writing and shall conform to the terms and conditions of this Agreement, and specifically, shall bind such Agent to the terms, conditions, standards and performance requirements set forth in this Agreement, including Agent licensing, regulatory compliance, reporting, audit and corrective action requirements, and authorizing access by Solicitor Firm, SHP and the Department of Managed Health Care to the books and records of the Agent regarding services performed pursuant to this Agreement. Prior to execution of this Agreement, Solicitor Firm shall provide SHP with a copy of its standard form of Agent agreement, and any variations thereto.

3. Limitations to Solicitor Firm Authority.

- 3.1 The Solicitor Firm and its Agents are not authorized and are expressly forbidden to incur any indebtedness or liability, or to make, alter, or discharge contracts, or to waive forfeitures, name extra rates, extend the time of payment of any premium, or guarantee any actions on behalf of SHP. The Solicitor Firm and its Agents are further prohibited from obligating SHP without first obtaining written notification that SHP has accepted, conditionally or unconditionally, the submitted risk. Without limiting the forgoing, the Solicitor Firm specifically is not authorized to make, alter or waive any of the terms, rates or conditions of any of SHP's forms, policies, contracts or advertising materials, to quote rates not approved by SHP, to extend the time of payment of any premium, to extend credit to customers, or to adjust or settle claims.
- 3.2 Furthermore, the Solicitor Firm and its Agents are also not authorized and are expressly forbidden, unless otherwise agreed in writing, to collect any money due or to become due SHP, except the initial first premium collected by or through the Solicitor Firm or an Agent, obtained during policy delivery, or during the collection of receipts sent to the Solicitor Firm by SHP, (and Solicitor Firm and its Agents are not authorized to deduct compensation, commissions, services fees, or allowances from Plan Funds, as defined below, that Solicitor Firm or Agent collects). Solicitor Firm and its Agents shall not waive premium or extend the time for payment of premium. Any money due or to become due SHP from customers as premiums or otherwise are funds of SHP ("Plan Funds").
- 3.2.1 Solicitor Firm and its Agents shall inform all applicants providing payments for SHP health care coverage products that all payments are to be made directly to SHP with the exception of the initial payment submitted with the coverage application, which shall be in the form of a check payable to SHP or any alternative form of payment agreeable to the SHP and consistent with DMHC requirements.
- 3.2.2 All Plan Funds collected by Solicitor Firm and its Agents for SHP shall at all times be segregated from the assets of the Solicitor Firm and the Agents, and shall be promptly, and in any event no later than the business day following receipt by Solicitor Firm and its Agents, deposited to a trust account in a state or federal bank authorized to do business in California and insured by an appropriate federal insuring agency. All funds received by the Solicitor Firm and its Agents for the account of SHP shall be transmitted to SHP, or to a person designated by SHP herein, within two (2) business days after such funds are received by Solicitor Firm and its Agents.
- 3.3 Solicitor Firm and its Agents are expressly forbidden to pay or allow, or to offer to pay or allow, any rebate of premium in any manner whatsoever, whether directly or indirectly. Solicitor Firm agrees, and shall assure that its Agents agree, not to make any representation as to SHP's coverage and policies except as may be contained in the written materials furnished to Solicitor Firm by SHP, nor make any oral or written alteration, modification or waiver of any of the terms or conditions applicable to that coverage and policy without the express prior written consent of SHP.

- 3.4 Solicitor Firm and its Agents shall not have underwriting or price-setting authority and shall not bind coverage under the health care coverage product(s) without SHP's express prior written approval.
- 3.5 In addition, the Solicitor Firm and its Agents are not authorized to use the name, trademarks, or logo of SHP in any way or manner not specifically authorized in writing by SHP.
- 3.6 The Solicitor Firm and its Agents have no authority to institute legal or administrative proceedings in SHP's name or institute such proceedings in connection with the transaction of SHP's business unless an authorized officer of SHP provides written approval for such actions to the Solicitor Firm or its Agents.

4. Rights Reserved to SHP

- 4.1 SHP specifically reserves the right, without approval of the Solicitor Firm or its Agents:
 - 4.1.1 To discontinue or withdraw from sale any health care service plan and/or health care coverage product in California;
 - 4.1.2 To modify, change, or amend any certificate, contract or premium rate;
 - 4.1.3 To determine all terms, conditions and limitations of any certificate or contract and modify or change the terms under which any health care coverage product may be sold; and
 - 4.1.4 To modify, institute or delete any SHP procedure; and
 - 4.1.5 To, in its sole discretion, determine that any specified individual Solicitor Firm principal person, employee or Agent will not provide services under this Agreement.

5. Independent Contractor Relationship.

The parties agree that Solicitor Firm and its Agents are an independent contractors, and not an employee, agent, or partner of, or joint venture with, SHP or any of its affiliates. Nothing contained in this Agreement shall be construed to create an employer and employee relationship between SHP and the Solicitor Firm or any of Solicitor Firm's principal persons, employees or Agents. Neither Solicitor Firm nor its principal persons, employees and Agents shall not hold themselves out as an employee, partner, joint venture or officer of SHP; nor as an agent of SHP in any other manner, or for any other purpose, except as specifically provided in this Agreement. SHP shall thus not exercise control over the methods by which Solicitor Firm performs its obligations under this Agreement. Notwithstanding the foregoing, SHP shall retain all oversight and administrative responsibility for the Services rendered by Solicitor Firm under this Agreement, including without limitation, reporting, auditing, and training, to the extent required to comply with the Knox-Keene Health Care Service Plan Act of 1975 (as amended) (the "Knox- Keene Act") and Title 28 of the California Code of Regulations.

6. Territory and Licensure.

- 6.1 Solicitor Firm is authorized to do business, under the conditions of this Agreement, within the SHP service area, as further described in Section 6.2 of this Agreement. Solicitor Firm represents and warrants that it is licensed to solicit health insurance applications in these territories and that it will maintain licenses, in good standing, during the term of this Agreement, at Solicitor Firm's own expense, and that it will assure that each of its principle persons, employees and Agents will maintain all required licenses, in good standing. This Agreement does not assign exclusive territorial rights to the Solicitor Firm or its Agents.
- 6.2 Solicitor Firm shall not and shall assure that its Agents shall not market, solicit or sell any SHP health care coverage product outside of the SHP service area approved by the DMHC. SHP may update the SHP service area from time to time to reflect additional DMHC service area approvals by providing written notice to Solicitor Firm without need for an amendment to this Agreement. For purposes of this Section, written notice by SHP shall include SHP's updating of its service area listing available to Solicitor Firm at the SHP website www.sutterhealthplus.org, without the necessity of additional notice under Section 22. Solicitor Firm shall affirmatively check the SHP website to confirm Solicitor Firm is aware of any changes to the SHP service area listing, and shall rely on the most recent update to such website in performing Services hereunder and Solicitor Firm shall communicate updates to its Agents.
- 6.3 For purposes of this Agreement (including its exhibits), an SHP "health care coverage product" shall mean only a product described in the product listing available to Solicitor Firm in accordance with Section 2.6 of this Agreement.
- 6.4 Solicitor Firm represents that it is now actively engaged in the insurance business, and that Solicitor Firm and its Agents are familiar with and knowledgeable regarding the regulatory requirements applicable to its business. Solicitor Firm and its Agents shall take no action contrary to any regulatory requirement that might directly or indirectly subject SHP to adverse regulatory action or expense.

- 6.5 Solicitor Firm shall be responsible for securing and keeping in effect any required licenses as described in Section 6.1 above. This shall include complying with any applicable continuing education requirements.
- 6.6 Solicitor Firm shall forward copies of all required licenses to SHP prior to appointment.
- 6.7 Solicitor Firm may not require a resident agent licensed in one state to countersign or process in any manner an application, policy, contract or any other form of insurance on behalf of a nonresident agent or broker not licensed in that state.
- 6.8 Solicitor Firm certifies that it shall determine that each of its principle persons, employees and Agents providing services pursuant to this Agreement are properly licensed to do so in California. Prior to execution of this agreement Solicitor Firm shall forward to SHP a list of all Agents that Solicitor Firm proposes to authorize to provide services pursuant to this Agreement and, for each, Solicitor Firm will include copies of all required licenses. Following execution of this Agreement, prior to authorizing any new proposed Agents to provide services pursuant to this Agreement, Solicitor Firm shall notify SHP and shall provide copies of applicable licenses. SHP shall notify Solicitor Firm regarding any proposed Agents that shall be excluded from providing services pursuant to this Agreement, and Solicitor Firm shall assure that any such excluded Agents shall be prohibited from providing services pursuant to this Agreement

7. Compliance

- 7.1 Compliance with Laws. Solicitor Firm shall perform, and Solicitor Firm shall cause its principal persons, employees and Agents to perform, all obligations under this Agreement in strict compliance with all applicable state, federal and local laws, including but not limited to the requirements of the California Knox-Keene Act and Title 28 California Code of Regulations as applicable to solicitors. Solicitor Firm acknowledges and agrees that SHP has authority to oversee and monitor the Services rendered by Solicitor Firm and its Agents under this Agreement, including without limitation, reporting, auditing, and training, as required to comply with the Knox- Keene Act and Title 28 of the California Code of Regulations.
- 7.2 Licensing and Appointment Process. Solicitor Firm agrees to participate in SHP's licensing and appointment process, which requires Solicitor Firm to provide the following: a legible copy of the Solicitor Firm's principal's current California Life and Health Agent License, a W9 form, and proof of Errors and Omissions (E&O) insurance coverage..
- 7.3 Conflict of Interest. Solicitor Firm agrees to comply with its own policies regarding conflicts of interest. Solicitor Firm further acknowledges that SHP maintains and enforces a Conflict of Interest Policy. Solicitor Firm will use reasonable efforts to act in a manner that does not encourage, facilitate or cause the violation of the SHP Conflict of Interest Policy by individuals who are subject to that Policy. Solicitor Firm represents and warrants that Solicitor Firm, as well as any Solicitor Firm personnel involved in the negotiation, implementation and performance of this Agreement have no knowledge of any circumstances constituting a conflict of interest with respect to Solicitor Firm's transaction of business with SHP. Without limiting the forgoing, Solicitor Firm represents and warrants that Solicitor Firm is not bound by any regulatory, contractual or other restriction or negative covenant which in any way would prohibit or otherwise affect Solicitor Firm's engagement hereunder or the performance of any of Solicitor Firm's obligations under this Agreement. Solicitor Firm agrees to notify SHP within thirty (30) days of any such Solicitor Firm personnel learning of any circumstances constituting a conflict of interest hereunder.
- 7.4 Certification. Solicitor Firm certifies that neither Solicitor Firm nor its principal persons, employees and Agents that are currently named as an excluded entity or individual on the "List of Excluded Individuals/Entities" of the U.S. Department of Health and Human Services Office of the Inspector General ("OIG List"), or listed on the U.S. General Services Administration's List of Parties Excluded from Federal Procurement and Nonprocurement Program, and Solicitor Firm is not aware of any pending or threatened exclusion or debarment action against Solicitor Firm or its principal persons, employees and Agents. Solicitor Firm further certifies that neither Solicitor Firm nor its principal persons, employees and Agents have been: (i) convicted of or pleaded nolo contendere to a crime, or having been held to have committed any act involving dishonesty, fraud or deceit in a judicial or administrative proceeding to which Solicitor Firm was a party, or (ii) named in an Order of the Director of the California Department of Managed Health Care pursuant to Section 1386(c) or Section 1388(d) of the Knox-Keene Act. Solicitor Firm agrees to notify SHP immediately following Solicitor Firm learning that: (i) this certification is no longer accurate, and/or (ii) that there are disciplinary proceedings against it or against any of its principal persons, employees or Agents relating to any license issued to any such person by the California Insurance Commissioner, and this Agreement shall terminate without the need for written notice in the event Solicitor Firm or its principal persons, employees and Agents becomes so excluded, debarred, or disciplined during its term.
- 7.5 Accessibility. Subject to Section 12 of this Agreement (Advertisements and Collateral), Solicitor Firm will provide Services under this Agreement such that the net product of such Services, including, but not limited to: Web-based internet information and applications, information, documentation and support, are usable by a person with a disability in accordance with Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181, et seq., and/or Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 701, et seq., and Section 1194.22 (a)– (p) of the Electronic and Information Technology Accessibility Standards, 36 C.F.R. Part 1194 (implementing Rehabilitation Act Section 508 (29 U.S.C. § 794d)).

- 7.6 Language Assistance. Solicitor Firm shall not and shall assure its Agents shall not engage in any marketing, solicitation, or sales of SHP health care coverage products directed to persons with limited English proficiency(LEP) unless all such activities are conducted in the LEP individual's preferred language, including but not limited to discussions, explanations, responses to questions, and the presentation of vital documents (subject to Section 12 of this Agreement (Advertisements and Collateral), including but not limited to coverage application forms, benefit summary matrices and key provisions of evidences of coverage, as defined by Section 1367.04 of the California Knox-Keene Act and Section 1300.67.04 of Title 28 California Code of Regulations. Specifically, Solicitor Firm and its Agents acknowledge that SHP is subject to the Knox-Keene Act requirements regarding the provision of interpreter services and written translations of vital documents, and Solicitor Firm and its Agents agree that if Solicitor Firm and its Agents are unable to provide LEP persons with language assistance services as required by the Knox Keene Act, then Solicitor Firm shall and shall assure its Agents shall refer all such persons to the SHP sales department.
- 7.7 All SHP Solicitor Firms are responsible for preventing, detecting and reporting suspected fraud, waste and abuse. If a contracted Solicitor Firm detects any suspicious activity, The Solicitor Firm is required to notify the SHP Compliance Officer. The person reporting fraud may make himself/herself known by reporting the suspected fraud in person, or may report the suspected fraud anonymously via voicemail to the toll free hot-line 1-800-500-1950 or by U.S. Mail to:

Sutter Health Plan
Attn: Compliance Officer
2700 Gateway Oaks Drive, Suite 1200
Sacramento, CA 95833

All Solicitor Firms shall immediately notify the SHP Compliance Officer of any customer complaint or if they are served with any paper or has knowledge of any legal or administrative action, investigation or proceeding against SHP.

- 7.8 Solicitor Firm shall not hold out as representing, constituting, or otherwise providing services on behalf of the California Health Benefit Exchange ("Exchange") unless Solicitor Firm has a valid agreement with the Exchange to engage in those activities.
- 7.9 Training. Solicitor Firm agrees to require all principal persons, employees and Agents who will perform services hereunder to attend and complete, before commencing performance of services, compliance and product training as dictated by SHP or required by DMHC. If the Solicitor Firm provides Fraud, Waste and Abuse and/or other compliance training for its Agents SHP may, in its sole discretion, accept Solicitor Firm's Agent training in lieu of all or part of SHP training requirements.. Concurrent with execution of this Agreement, Solicitor Firm shall provide SHP with copies of all Agent compliance training materials. Failure to meet compliance and product training requirements as required by SHP shall constitute cause for termination of this Agreement. Solicitor Firm represents and warrants that Solicitor Firm shall only undertake to provide services hereunder if Solicitor Firm has sufficient knowledge of SHP's organization, procedures, plan contracts, and the provisions of the California Knox-Keene Act, Insurance Code, and applicable rules thereunder to do so lawfully.

8. Commissions.

Sutter Health Plan shall pay compensation to Solicitor Firm as described in this section 8 and in Exhibit A:

- 8.1 Commissions, net of any charges such as for advances, return commissions or debts due SHP, shown on the monthly accounting, shall be paid as set forth in Exhibit A. Such commissions shall constitute full compensation for services performed under this Agreement. SHP may revise Exhibit A as deemed necessary with 45 days notice. All new and renewal commissions will be paid in accordance with the commission schedule in effect at the time the commission is due.
- 8.2 Commission payments will be made on new and renewal business in accordance with Exhibit A. New business is defined as an account which has not purchased a health care service plan from SHP, during the six (6) months prior to the effective date of the new health care service plan. All business that is not new business is renewal business.
- 8.3 Commissions will be paid monthly, but commissions will only be paid on premium payments or charges actually received and applied by SHP in the prior month. The SHP policies, procedures and commission schedules in effect at the time a commission payment is due shall apply. To receive commission payment pursuant to this Agreement, the Solicitor Firm must hold a valid insurance license in the state of California during the entire term of this Agreement.
- 8.4 Should SHP, in its sole discretion, for any reason refund or credit to the customer any premium, the Solicitor Firm will promptly, on demand, refund to SHP all compensation paid to the Solicitor Firm for such premium. Compensation adjustments shall be made on decreases in premium for which first year compensation has previously been paid. The Solicitor Firm grants a paramount and prior lien upon its account and upon any compensation due hereunder to secure the repayment of any net negative amount of the Solicitor Firm's account or any other amounts owed by the Solicitor Firm to SHP under this Agreement. SHP is authorized, at any time either before or after the termination of this Agreement, to deduct from any compensation due from SHP to the Solicitor Firm the entire amount of any funds owed by the Solicitor

Firm to SHP. Any compensation paid to the Solicitor Firm for premiums later refunded or credited to the customer, or any overpayment of compensation shall be a debt due SHP from the Solicitor Firm.

8.5 Solicitor Firm shall be responsible for all taxes on compensation earned under this Agreement. Solicitor Firm shall be responsible for providing all insurance or other coverages that it is required by law to provide for itself, or for any of its principle persons, employees, or Agents.

8.6 Solicitor Firm shall have sole responsibility to pay commissions and other compensation owed to its Agents for services rendered pursuant to this Agreement. SHP shall have no obligation to pay any commissions or other compensation or reimbursements to Solicitor Firm's Agents.

9. Lapsed Plan.

If any health care coverage contract lapses for a period exceeding three (3) months and is not subsequently reinstated, there shall be no further obligation upon SHP to pay commissions hereunder for such health care coverage contract unless said program is reinstated through the direct efforts of the Solicitor Firm, as determined by SHP.

10. Gifts or Payment to Third Parties.

Neither Solicitor Firm nor its principal persons, employees and Agents shall (directly or indirectly) offer to pay or otherwise distribute any bonus or gratuity to potential subscribers or group customers for the purpose of inducing enrollment or to existing subscribers or group customers for the purpose of inducing the continuation of enrollment.

11. Records and Audit

Solicitor Firm must maintain adequate books and records in accordance with applicable law and standards within the health care insurance industry. SHP may audit Solicitor Firm's records. Solicitor Firm agrees to permit SHP to inspect and audit all information and records related to services Solicitor Firm performs for SHP under this Agreement. SHP must give Solicitor Firm not less than 7 days advance notice and conduct the inspection and audit during regular business hours. In addition, all records, books, and papers of Solicitor Firm shall be open to inspection during normal business hours by the Director of the California Department of Managed Health Care. Without limitation of the forgoing, Solicitor Firm shall maintain, for a period of not less than five (5) years (or longer as may be required by applicable law, the books of account and other records related to the services performed by Solicitor Firm hereunder. All such records, books, and papers of Solicitor Firm shall be located in California. The most recent two (2) years of all such records shall be maintained by Solicitor Firm in an easily accessible place at the offices of Solicitor Firm. After such books and records have been preserved for two years by Solicitor Firm, they may be warehoused or stored, or microfilmed, subject to their availability to SHP and/or the Director of the California Department of Managed Health Care within not more than five (5) days after request therefore. Solicitor Firm shall assure that all contracts with Agents shall bind the Agents to compliance with the requirements of this Section 11.

12. Advertisements and Collateral.

Solicitor Firm acknowledges that any and all advertisements to be used in the marketing of SHP health care coverage products shall not be used without the express prior written consent of SHP. In the event that Solicitor Firm intends to use any advertisement in the marketing of SHP health care coverage products in any medium (including without limitation print, audio, or audio/visual), Solicitor Firm shall provide complete copy of the proposed advertisement to SHP for review a minimum of ninety (90) days prior to the proposed use of such advertisement. Notwithstanding the forgoing, failure of SHP to approve any proposed advertisement within such ninety (90) day review period, shall not be deemed consent by SHP to the use of such advertisement. Any advertisement that SHP provides to Solicitor Firm, or with respect to which SHP consents in writing to use by Solicitor Firm, shall only be used by Solicitor Firm only in the unaltered form and format in which such advertisement was approved for use. Solicitor Firm shall not alter, modify, waive or change any of the terms, rates or conditions of any advertisements or other promotional collateral, receipts, policies or contracts of SHP in any respect.

13. Assignment and Delegation.

Neither party may, directly or indirectly, in whole or in part, either by operation of law or otherwise, assign or transfer this Agreement or delegate any of its obligations under this Agreement without the other party's written consent. Any attempted assignment, transfer or delegation without such prior written consent will be void and unenforceable.

14. Indemnification.

14.1 Each party (the "Indemnifying Party") shall be solely financially responsible for, and shall defend, indemnify and hold harmless the other party, its Affiliates and their respective owners, subsidiaries, directors, officers, employees, representatives, authorized agents, successors, successors-in-interest and assigns (collectively, the "Indemnified Party") from and against any and all Liabilities made by a third party (including reasonable attorney's fees) against an Indemnified Party arising or resulting from, or to the extent attributable to, any of the following: (i) any breach or material inaccuracy in the certifications, representations or warranties furnished by the Indemnifying Party in this Agreement;

(ii) any material failure or inability of the Indemnifying Party (or of its personnel or contractors, agents, representatives, Affiliates or subcontractors, but not including Solicitor Firm or its principal persons, employees or Agents with respect to SHP) to perform or abide by any of the covenants, certifications, obligations, duties or responsibilities imposed upon the Indemnifying Party under this Agreement; (iii) any negligence or willful misconduct (including fraud) of the Indemnifying Party or its personnel or contractors occurring during or in connection with this Agreement or applicable laws and regulations; (iv) the violation by the Indemnifying Party of any laws, regulations, or licensure requirements applicable to its business or its performance under this Agreement. The Indemnifying Party agrees to promptly pay and fully satisfy any and all Losses, Judgments or Expenses incurred or sustained by the Indemnified Party as a result of any Liabilities of the types described in the foregoing clauses of this Section 14.1. In no event shall either party be liable in indemnification hereunder to the extent that such indemnification obligation results from the negligence of the Indemnified Party (including its personnel and subcontractors), or performance or nonperformance of the Indemnified Party's obligations under this Agreement, or the actions or omissions of the Indemnified Party's personnel or contractors in connection with the Indemnified Party's performance of this Agreement.

14.2 Procedure for Handling Third Party Liabilities. Each party shall provide prompt written notice to the other party upon learning of any occurrence or event that may result in an obligation of the other party under Section 14.1, provided that the omission by a party to give notice of a claim as provided in this Section 14.2 shall not relieve the other party of its obligations under Section 14.1 except to the extent that (i) the omission results in a failure of actual notice to the other party and (ii) the other party suffers damages as a result of the failure to give notice of the claim.

14.3 Definitions. For purposes of this Section 14, the following terms shall have the following meanings:

14.3.1 "Liabilities" shall mean and refer to any and all claims, legal or equitable causes of action, suits, litigation, proceedings (including a regulatory or administrative proceedings), grievances, complaints, demands, charges, investigations, audits, arbitrations, mediation or other process for settling disputes or disagreements, including, without limitation, any of the foregoing processes or procedures in which injunctive or equitable relief is sought (collectively, "Liabilities")

14.3.2 "Expenses" shall mean and refer to any and all costs, expenses and fees, including costs of settlement, attorneys' fees, accounting fees, and expert costs and fees incurred in connection with Liabilities which are the subject of indemnification or reimbursement under this Agreement or Losses or Judgments arising from such Claims.

14.3.3 "Judgments" shall mean and refer to any judgments, writs, orders, injunctions or other orders for equitable relief, awards or decrees of or by any court, judge, justice or magistrate, including any bankruptcy court or judge and any order of or by any Governmental Authority.

14.3.4 "Losses" shall mean and refer to any losses, damages of any kind or nature, assessments, fines, penalties, deficiencies, interest, payments, expenses, costs, debts, obligations, liabilities, liens or Judgments which are sustained, incurred or accrued.

15. Assets.

Solicitor Firm represents and warrants that Solicitor Firm shall all times during the Term maintain a tangible net worth at least equal to twenty (20) percent of Solicitor Firm's aggregate indebtedness or \$10,000, whichever is greater, and shall maintain liquid net assets of at least \$5,000 in excess of Solicitor Firm's current liabilities.

16. Insurance.

16.1 Errors and Omissions. Solicitor Firm represents and warrants that Solicitor Firm shall maintain, in good standing, errors and omissions insurance coverage with a specific limit of liability of at least one million dollars (\$1,000,000) and an aggregate limit of liability of at least one million dollars (\$1,000,000) during the entire term of this Agreement. The Solicitor Firm is further required to provide SHP, at its request, with a copy of such errors and omissions insurance policy. The Solicitor Firm must notify SHP if the errors and omissions coverage is terminated, canceled, or lapsed.

16.2 Other Insurance. Solicitor Firm represents and warrants that Solicitor Firm shall, and shall require its principle persons, employees and contracted agents to, maintain in good standing all other insurance, including but not limited to commercial liability and worker's compensation insurance as required by State or Federal Requirements.

17. Termination without Cause.

17.1 Either party to this Agreement on sixty (60) days' written notice to the other may terminate this Agreement by mail to the last known address.

17.2 If this Agreement is terminated by either party without cause, Solicitor Firm shall continue to receive compensation on eligible premium as if the terms of Section 8, above, remained in-force during the first 12 months this Agreement is in-force.

18. Termination for Cause.

Without restricting the right of SHP to terminate the Agreement on sixty (60) days' written notice, SHP may immediately terminate this Agreement for cause upon written notice to the Solicitor Firm, at its last known address, for the following reasons:

- 18.1 If Solicitor Firm breaches a term of this Agreement, SHP may terminate this Agreement immediately by notifying Solicitor Firm in writing of the effective date of termination. The effective date of termination pursuant to this Section may be the date of the breach, or any later date that SHP specifies in the notice of termination;
- 18.2 If Solicitor Firm does not have, or fails to maintain, a license required to perform services or receive compensation under this Agreement (including if Solicitor Firm's license is revoked by a licensing or regulatory agency). It shall be considered a material breach of this Agreement by Solicitor Firm and this Agreement shall be terminated effective as of the date that Solicitor Firm first lost, or failed to maintain, the license without regard to when SHP learns of the loss of, or failure to maintain, the license or when SHP notifies Solicitor Firm that this Agreement has been terminated. SHP may recover any compensation paid to Solicitor Firm after Solicitor Firm loses or fails to maintain any such license;
- 18.3 If Solicitor Firm fails to comply with the policies and procedures of SHP or the laws of any regulatory authority having jurisdiction over the parties;
- 18.4 If a licensing or regulatory agency subjects Solicitor Firm to any disciplinary sanction (for example, a reprimand or temporary suspension of Solicitor Firm's license), SHP may terminate the Agreement by providing written notice to Solicitor Firm effective upon receipt of the notice, or any later date that SHP specifies in the notice. No compensation will be payable to Solicitor Firm for services rendered during any period in which Solicitor Firm's license is temporarily suspended. SHP may recover any compensation paid to Solicitor Firm during any period in which Solicitor Firm's license is temporarily suspended;
- 18.5 Upon Solicitor Firm's dissolution, receivership, insolvency, or bankruptcy;
- 18.6 Upon disclosure by Solicitor Firm of the compensation schedule to any outside parties, unless otherwise required to do so, by law;
- 18.7 Failure of Solicitor Firm to maintain insurance requirements as set forth in Section 16 of this Agreement;
- 18.8 If Solicitor Firm engages in, or knowingly assists another to commit, fraudulent or dishonest activity in connection with the solicitation, enrollment or renewal of any customer, whether a customer of SHP or not, this Agreement shall terminate effective as of the date on which Solicitor Firm engaged in or assisted with such activity without regard to when SHP learns of the fraudulent or dishonest activity or when SHP notifies Solicitor Firm that this Agreement has been terminated. SHP may recover any compensation paid to Solicitor Firm after Solicitor Firm engaged in, or knowingly assisted another to commit, the fraudulent or dishonest act without regard to when Solicitor Firm actually earned such compensation.

Effect of Termination. Upon termination of this Agreement, appointment of Solicitor Firm, and its authorization of all Agent to perform services pursuant to this Agreement shall terminate on the effective termination date, and Solicitor Firm shall notify all affected Agents. Unless specifically stated otherwise, if Solicitor Firm is terminated for cause, no compensation will be due the Solicitor Firm subsequent to the effective date of termination.

19. Waiver.

Failure of SHP to enforce compliance with the terms and conditions of this Agreement shall not be construed as a waiver of the right to exercise the same at any time.

20. Ownership of Proprietary Rights.

Solicitor Firm agrees that SHP shall be the owner of all proprietary rights in and to any documentation, records, text and other works of authorship, data, databases, information, know-how, conceptions, discoveries, inventions, designs, symbols, names, procedures, methods, processes, improvements, products, prototypes, samples, trade secrets and other property and materials, tangible or intangible, whether or not patentable or registerable under copyright, patent or similar laws, within the foregoing: (i) furnished to Solicitor Firm, or to which Solicitor Firm is given access by SHP in connection with the performance of this Agreement; and/or (ii) conceived, reduced to practice, or otherwise created, authored, developed or generated in connection with performance of this Agreement by Solicitor Firm either solely or jointly with SHP (collectively, the "Intellectual Property"). Solicitor Firm shall not have any interest in such Intellectual Property. Accordingly, Solicitor Firm hereby assigns to SHP all of Solicitor Firm's right, title and interest in and to the Intellectual Property. Solicitor Firm further acknowledges its obligation to assist SHP or its designee, at SHP's (or designee's) expense, in every proper way to secure SHP's, or its designee's, rights in the Intellectual Property and any copyrights, patents, trademarks, moral rights or other intellectual property rights relating thereto. This obligation includes maintaining and preserving accurate and complete records of all pertinent information and data with respect thereto ("Records"), disclosing to SHP or its designee all Intellectual Property and Records, and executing all applications, specifications, oaths, assignments, recordations and instruments necessary to obtain, maintain and transfer such rights to SHP or its designee

(or, if not transferable, to waive such rights). The parties further agree that nothing in this paragraph or in this Agreement shall limit SHP sole and exclusive intellectual property rights in and to its own data provided to Solicitor Firm during the course of this Agreement.

21. Confidentiality

Each party shall hold the following "Confidential Information" in strict confidence and not disclose the same to any other person or entity except as provided herein: each other's proprietary and confidential records and information, including but not limited to all information, pricing and terms relating to or contained in this Agreement; the content of all negotiations and other discussions regarding contract terms, conditions and pricing; all service and product data, trade secrets, financial data, pricing, business plans and any other information or technology received from the other party in implementing this Agreement; the confidential information of vendors and other third parties disclosed to the receiving party as part of the provision of Services under this Agreement; all personally identifiable information of a party's employees, agents, patients and customers; and all information derived from the foregoing.

21.1 Notwithstanding the above:

21.1.1 A party may disclose Confidential Information as required by law, provided that such disclosing party provides reasonable prior notice to the other party to enable such other party to attempt to prevent or limit the disclosure and the disclosing party assists the other party upon request in seeking relief from or limiting the disclosure.

21.1.2 SHP may disclose contract terms, conditions and pricing terms, as well as other Confidential Information, including vendor and other third party confidential information, to those parties and/or consultants not already mentioned above that SHP has or will contract with or retain in the course of managing its business, provided those parties/consultants agree in writing that they shall not use or divulge such Confidential Information to any third party except as necessary for the discharge of their obligations to SHP or as required by law.

21.1.3 SHP may disclose contract terms, conditions and pricing terms, as well as other Confidential Information to state and federal agencies, including but not limited to the California Department of Managed Health Care, that have regulatory authority for licensing and compliance oversight of SHP operations.

21.1.4 A party may disclose Confidential Information with the prior written consent of the other party.

22. Notice.

Unless otherwise set forth explicitly herein, any notice required or permitted under this Agreement shall be given in writing, to the other party, by hand, via nationally recognized overnight delivery service, or via Certified Mail, Return Receipt Requested, postage prepaid, addressed as follows:

If to SHP: Sutter Health Plan
Attn: VP of Sales
2700 Gateway Oaks Drive Suite 1200
Sacramento, CA 95833

If to Solicitor Firm: Solicitor Firm Name:
Contact Name:
Address:
City: State: ZIP:
Email:
Phone:

23. Severability.

In the event that any term or condition of this Agreement is determined to be invalid or unenforceable by a Court of competent jurisdiction, such term or condition shall be severed from this Agreement and the remaining terms and conditions shall be given their full force and effect.

24. Governing Law.

This Agreement and all transactions contemplated by this Agreement shall be governed by, and construed and enforced in accordance with the laws of the State of California.

25. Mandatory Binding Arbitration.

Any controversy, dispute or claim arising out of the interpretation, performance or breach of this Agreement shall be resolved by binding arbitration at the request of either party, in accordance with the Commercial Rules of the American Arbitration Association. Such arbitration shall occur in the County of Sacramento, California, unless the parties mutually agree to have such

proceeding in some other locale. The arbitrators shall apply California substantive law and federal substantive law where state law is preempted. The provisions of California law concerning the right to discovery and the use of depositions in arbitration are incorporated herein by reference and made applicable to this Agreement. Under no circumstance do the arbitrators have the right to impose punitive damages.

25.1 Solicitor Firm and its Agents shall not initiate litigation in any dispute between Solicitor Firm or an Agent and any applicant or subscriber, without the prior written consent of SHP.

26. Compliance with Health Insurance Portability and Accountability Act of 1996 (HIPAA).

As an entity contracted with SHP to market health care coverage products, Solicitor Firm is designated as a business associate of SHP and agrees to execute a business associate agreement with SHP in the form and format provided by SHP. Without limitation of the forgoing, Solicitor Firm shall not use or disclose Protected Health Information (as defined more specifically at 45 C.F.R. § 160.103) for any purpose other than (i) the purposes contemplated by the Agreement (ii) as required or allowed under the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated thereunder at 45 C.F.R. Parts 160 through 164 (collectively, "HIPAA"); or (iii) as otherwise required by law. In no event may Solicitor Firm use or disclose Protected Health Information in a manner that violates or would violate HIPAA if such activity were engaged in by SHP. Solicitor Firm further agrees to execute the SHP standard Business Associate Agreement as part of SHP's Solicitor Firm orientation certification and training procedures, which shall be completed before Solicitor Firm engages in any marketing, solicitation or sales activities on behalf of SHP.

27. Entire Agreement.

This Agreement, including the Recitals and Exhibits, which are specifically incorporated herein, constitutes the entire agreement between the parties. This Agreement may be modified only in writing signed and dated by each party's management level representative who has actual signature authority to legally bind the party on whose behalf the signature is made.

By their signatures below, each of the following represent that they have the authority to execute this Agreement and to bind the party on whose behalf their execution is made.

IN WITNESS WHEREOF, the parties have accepted and agreed to this Agreement as of the Effective Date.

Solicitor Firm

Sutter Health Plan

.....
Signature



.....
Name

**Robert Carnaroli
Vice President of Sales**

.....
Date

.....
License #

.....
License Expiration

Exhibit A

Compensation Schedule for Agents Receiving Commission Compensation

The compensation for sales of these SHP health care coverage products will be effective June 1, 2020 and commission to Agent will be paid after this date as follows:

Solicitor Firm Commission		
Health Care Coverage Product	New Business	Renewal
Individual	3% of paid monthly premium	3% of paid monthly premium
Small Group (1-50)	6.5% of paid monthly premium	6.5% of paid monthly premium
Small Group (51 –100)	5% of paid monthly premium	5% of paid monthly premium
Large Group (101+)	To be negotiated based on paid monthly premium	

Calculation of Commission Payments

1. No compensation shall be payable to Agent with respect to: (i) for group business, any subscriber that does not live, work or reside in the SHP service area (as described in Section 6.2), or (ii) for individual business, any individual that does not live or reside in the SHP service area (each as reasonably determined by SHP). In no event shall compensation be paid hereunder with respect to any business that does not conform to SHP's underwriting guidelines.
2. "Paid Monthly Premium" means: Premium paid on billed amount based on individual or group coverage. Commission calculation based on the amount remitted by the individual, or the group on behalf of its subscribers.

Timing of Commission Payments

1. Commissions will be paid to Agent on a monthly basis, postmarked within 10 business days following the end of the month for which the individual (IFP) or group coverage is effective and for which premium has been received.
2. Commission rates will be paid to Agent as long as the IFP or group coverage remains in force.

Incentive Payments

SHP, in its sole discretion, may offer incentive payments from time to time. Such incentive payments, when offered, will be subject to all terms and conditions of this Agreement. Notwithstanding the foregoing, incentive payments will be subject to the specific payment terms and conditions set forth in the applicable incentive payment announcement issued by SHP.