

- a. It is the intent of § P Z L Q V & R Q Q H F W § G P h e Plan Sponsor. The provisions of this Agreement be and are severable. If any provision of this Agreement is invalid by law, it will not affect any other provision of the Agreement.
5. New York and Massachusetts Surcharge:
- a. Any plan with a member who receives care in a NY facility (the surcharge is for facilities only) is subject to the surcharge regardless of whether the member lives or works in NY.
- The plan will be charged the tax whether or not they pay the GME amount (i.e., the PEPM based on members who reside in NY). The difference is the amount of the surcharge applied to the claim. For those plans that do not "elect", the surcharge rate is 33.63% (i.e., there is an additional 24% that is applied for plans that do not "elect to pay the GME").
- b. Massachusetts surcharge: there is no "election" but the plan will pay the surcharge for any member who receives care at a Massachusetts facility.

TERMINATION

This agreement may be terminated by the Plan Sponsor or Amwins Connect Administrators. To terminate this agreement, a written notice must be delivered to the other party not less than 30 days before the Effective Date of the termination. If such notice is not provided, the Plan Sponsor shall be liable for a late notification fee. Amwins Connect Administrators, subject however, to the following, shall have the right to cancel this agreement only at renewal.

1. Amwins Connect Administrators shall have the right to terminate this agreement with five days prior written notice if:
 - a. The Plan Sponsor does not perform its obligations of Plan benefit payments; in no case shall this relieve a Plan Sponsor of its obligation to reimburse Amwins Connect Administrators for the payment of Plan benefits.
 - b. The Plan Sponsor amends the Plan without prior written acknowledgment from Amwins Connect Administrators.
 - c. The Plan Sponsor fails to pay any fees or charges due and payable under this Agreement, Amwins Connect Administrators shall have the right, and may be required, to notify Plan Participants of the termination of this Agreement for such non-payment.
2. Amwins Connect Administrators may terminate this Agreement immediately without Notice to the Plan Sponsor as of the date:
 - a. The Plan Sponsor becomes insolvent, bankrupt, or subject to liquidation, receivership, or conservatorship.
 - E The excess of loss insurance carrier terminates its policy.

If Amwins Connect Administrators has terminated this Agreement for non-payment of fixed costs, the Plan Sponsor may apply for reinstatement according to § P Z L Q V & R Q Q H F W § G P h e Plan Sponsor's discretion and option.
4. Termination of this Agreement shall not affect the validity, provisions or terms of the Plan, the Plan shall continue to be effective until it is cancelled pursuant to its terms as indicated in the SPD.

In the event of early termination, the Plan Sponsor shall forfeit any unused claims funds remaining in their account. ***The aggregate excess loss policy benefits will cease as of the date of termination and any unpaid claims will be the responsibility of the Plan Sponsor.***

CLAIMS FUNDING AGREEMENT

Under the terms of my Plan Service Agreement with § P Z L Q V & R Q Q H F W § G P h e Plan Sponsor, I have agreed to provide funds for benefits payments monthly or more frequently, as required and agree § P Z L Q V & R Q Q H F W § G P h e Plan Sponsor's obligation to pay my benefits if I have not provided adequate funds pursuant to the funding arrangement. I understand that in accordance with ERISA and this agreement, I am financially responsible for all eligible claims incurred while my Plan is in effect.

FUNDING ARRANGEMENTS

PRE-FUNDING

I will remit my Maximum Monthly Medical Claims Liability, along with my monthly costs by the first of each month to § P Z L Q V & R Q Q H F W § G P h e Plan Sponsor. My funding contribution will be held in a non-interest bearing account. Amwins Connect Administrators will process and pay claims according to their standard procedures. Upon notification that additional funding is required, as is typical for optional benefits or enrollment changes, I will remit the amount due which is to be received by Amwins Connect Administrators within five (5) days of notification.

DENTAL PRE-FUNDING

I will remit my Initial Dental Claims funding amount before inception of coverage. I will remit additional claims funding as needed and requested by Amwins Connect Administrators. I will remit my monthly costs for administration as billed by the first of each month to Amwins Connect Administrators. My funding contribution will be held in a non-interest bearing account. Amwins Connect Administrators will process and pay claims according to their standard procedures. Upon notification that additional funding is required, I will remit the amount due which is to be received by Amwins Connect Administrators within five (5) days of notification. In the event of a deficit in dental claims funding, dental benefits will be held until funding is received by Amwins Connect Administrators.

IMPORTANT NOTE

If you fail to remit funds as required after notifications by Amwins Connect Administrators, administration of your Plan will be terminated. The Employee Retirement Income Security Act (ERISA) of 1974, as amended places a Fiduciary Burden on the employer -as Plan Sponsor, to ensure the Plan is adequately funded. Amwins Connect Administrators may notify all Plan Participants if your claims account is determined to be in jeopardy, which would be a result of non-payment.

HIPAA BUSINESS ASSOCIATE AGREEMENT

WHEREAS, the PARTIES to this CONTRACT wish to enter into or have entered into an arrangement whereby BUSINESS ASSOCIATE provides certain services to COVERED ENTITY; and

WHEREAS, the PARTIES to this CONTRACT, in order to provide and receive such services, must share PROTECTED HEALTH INFORMATION, on a continuing basis; and

WHEREAS, such PROTECTED HEALTH INFORMATION shared between Parties, is afforded special protections related but not limited to use and disclosure; and

WHEREAS, such special protections are set forth, mandated, regulated, and enforced under and in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA);

THEREFORE, as necessary to comply with HIPAA, BUSINESS ASSOCIATE and COVERED ENTITY agree that PROTECTED HEALTH INFORMATION (written, oral, or electronic) created, printed, received, stored, maintained, used, disclosed or otherwise shared by and between PARTIES is subject to the HIPAA BUSINESS ASSOCIATE AGREEMENT section of this Plan Service Agreement as follows:

- 1) **Definitions.** Unless otherwise defined, all terms contained in this CONTRACT shall have the same meanings as those similar terms set forth and defined by HIPAA. In the event of inconsistencies in definitions and terms, when permitted and not specifically excluded by HIPAA, this agreement shall be controlling.
 - a. **BREACH:** "Breach" shall mean the acquisition, access, use or disclosure of protected health information which compromises the security or privacy of such information, except where an unauthorized person to whom such information is disclosed would not reasonably have been able to retain such information in accordance with HITECH Act Subtitle D.
 - b. **BREACH NOTIFICATION RULE:** "Breach Notification Rule" shall mean the Standards and Implementation Specifications for Notification of Breaches of Unsecured Protected Health Information under 45 CFR Parts 160 and 164, subparts A and D.
 - c. **BUSINESS ASSOCIATE:** "Business Associate" shall mean Plan Administrator (**Amwins Connect Administrators**).
 - d. **CFR:** "CFR" shall mean Code of Federal Regulations.
 - e. **CONTRACT:** The HIPAA Business Associate Agreement section of this document.
 - f. **COVERED ENTITY:** "Covered Entity" shall mean Plan Sponsor (Employer).
 - g. **DESIGNATED RECORD SET:** "Designated Record Set" shall have the same meaning as the term 'designated record set' in 45 CFR § 164.501.
 - h. **DHHS:** Secretary of the Department of Health and Human Services ("DHHS") or duly authorized representative thereof.
 - i. **ELECTRONIC HEALTH RECORD:** "Electronic Health Record" shall mean an electronic record of health-related information on an individual that is created, gathered, managed, and consulted by authorized health care clinicians and staff.
 - j. **ELECTRONIC PROTECTED HEALTH INFORMATION:** "Electronic Protected Health Information" means Protected Health Information that is transmitted by Electronic Media (as defined in the Security and Privacy Rule) or maintained in Electronic Media.
 - k. **ENFORCEMENT RULE:** "Enforcement Rule" shall mean the Enforcement Provisions set forth in 45 CFR Part 160.
 - l. **GENETIC INFORMATION:** "Genetic Information" shall mean the Enforcement Provisions set forth in 45 CFR Part 160.
 - m. **HEALTH CARE OPERATIONS:** "Health Care Operations" shall have the meaning given to such term under the Privacy Rule in accordance with 45 CFR § 164.501.
 - n. **HHS:** "HHA" shall mean the Department of Health and Human Services.
 - o. **HIPAA RULES:** "HIPAA Rules" shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.
 - p. **HITECH:** The Health Information Technology for Economic and Clinical Health Act as contained within ARRA (American Recovery & Reinvestment Act). "HITECH" shall mean additional regulations providing strict penalties for violators of HIPAA's privacy and security provisions.
 - q. **INDIVIDUAL:** "Individual" shall have the same meaning as the term individual in 45 CFR 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502 (g).
 - r. **INFORMATION/PROTECTED HEALTH INFORMATION:** "Protected Health Information" shall have the same meaning as the term "protected health information" in 45 CFR 164.501, limited to the information created or received by Business Associate from or on behalf of Covered Entity.
 - s. **PARTIES:** BUSINESS ASSOCIATE and COVERED ENTITY.
 - t. **PERSONAL HEALTH RECORD**
 - u. **PRIVACY RULE:** "Privacy Rule" shall mean the Standards for Privacy of Individually Identifiable Health Information as set forth in the Code of Federal Regulations; § 45 CFR 160, 164, subparts A and E.
 - v. **SECURITY RULE:** "Security Rule" shall mean the requirements regarding security for the protection of electronic protected health information at 45 CFR Parts 160, 162 and 164.
- 2) **Term.** The term of this CONTRACT shall be from the date this Agreement is approved and signed by the Plan Administrator, the "EFFECTIVE DATE" until the date either party submits notice to the other of its intent to terminate this CONTRACT, at which time all of the INFORMATION shall be returned to COVERED ENTITY, destroyed by BUSINESS ASSOCIATE, or maintained in an extended manner pursuant to and set forth by HIPAA.

- 3) **Limits on Use and Disclosure of Information.** BUSINESS ASSOCIATE agrees that it is prohibited from use and disclosure of INFORMATION for any purpose other than those expressly permitted by this CONTRACT. Limits on Use and Disclosure by BUSINESS ASSOCIATE are pursuant to the PRIVACY REGULATIONS in the same regard as required for the COVERED ENTITY. BUSINESS ASSOCIATE further agrees that it does not assume or acquire title or rights to the INFORMATION as a result of this CONTRACT, including but not limited to information that has been "de-identified" in accordance with the PRIVACY REGULATIONS.
- 4) **Stated Purpose for Use or Disclose of Information.** The PARTIES agree that BUSINESS ASSOCIATE may use and disclose INFORMATION for the following stated purposes:
 - a. To carry out responsibilities and provide administrative services set forth in any agreements between of the PARTIES.
 - b. To facilitate, provide, and carry out treatment, payment, or healthcare operations permitted by the PRIVACY REGULATIONS.
- 5) **Use of Information for Management, Administration, and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to use INFORMATION as permitted by the PRIVACY REGULATIONS for management and administration of BUSINESS ASSOCIATE or to carry out legal responsibilities of BUSINESS ASSOCIATE.
- 6) **Disclosure of Information for Management, Administration, and Legal Responsibilities.** BUSINESS ASSOCIATE is permitted to disclose INFORMATION as permitted by the PRIVACY REGULATIONS for management and administration of BUSINESS ASSOCIATE provided that:
 - a. The disclosure is required by law; or
 - b. The BUSINESS ASSOCIATE obtains reasonable assurances from the person to whom the INFORMATION is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, the person will use appropriate safeguards to prevent use or disclosure of the INFORMATION, and the person immediately notifies the BUSINESS ASSOCIATE of any instances of which it is aware in which the confidentiality of the INFORMATION has been breached.
- 7) **Data Aggregation Services.** BUSINESS ASSOCIATE may use or disclose INFORMATION to provide data aggregation services in any manner permitted by the PRIVACY REGULATIONS.
- 8) **Limits on Use and Further Disclosure.** BUSINESS ASSOCIATE agrees that INFORMATION shall not be further used or disclosed other than as permitted by the PRIVACY REGULATIONS and this CONTRACT.
- 9) **Appropriate Safeguards.** BUSINESS ASSOCIATE and COVERED ENTITY are both responsible for establishing, implementing, and maintaining appropriate safeguards to prevent any use or disclosure of INFORMATION other than permitted by the PRIVACY REGULATIONS and this CONTRACT.
- 10) **Reports on Improper Use or Disclosure.** BUSINESS ASSOCIATE agrees to report to COVERED ENTITY, and any other required entity under HITECH if there is a BREACH of protected health information whether a mistake or intentional, any knowledge, discovery, or identification of use or disclosure of INFORMATION not permitted by the PRIVACY REGULATIONS, HITECH, and this CONTRACT.
- 11) **Subcontractors.** BUSINESS ASSOCIATE agrees to enter into agreements with subcontractors and/or affiliates in all cases where INFORMATION is provided or made available to that subcontractor and/or affiliate. Agreements will be consistent with the same terms and limitations provided in this CONTRACT regarding use and disclosure of INFORMATION
- 12) **Availability of Information.** BUSINESS ASSOCIATE agrees to make available and provide a right to access, amend, and request an accounting of use and disclosure of INFORMATION to the INDIVIDUAL to whom it belongs. BUSINESS ASSOCIATE further agrees to make its internal books and records available to the DHHS for purposes of determining the COVERED ENTITY's compliance with the PRIVACY REGULATIONS.
- 13) **Termination.** BUSINESS ASSOCIATE agrees that COVERED ENTITY has the right to terminate this CONTRACT and seek relief if COVERED ENTITY determines that BUSINESS ASSOCIATE has breached or violated a material term of this CONTRACT or the PRIVACY REGULATIONS. Any failure on the part of the BUSINESS ASSOCIATE, to comply with the terms of this CONTRACT or the PRIVACY REGULATIONS, may be Grounds for Breach, in cases where the BUSINESS ASSOCIATE knows of, or reasonably should have known of failure to comply and failed to immediately take reasonable steps to cure the failure. At time of termination, BUSINESS ASSOCIATE agrees to return or destroy INFORMATION created, received from or received on behalf of the COVERED ENTITY. BUSINESS ASSOCIATE also agrees that if INFORMATION is destroyed, it will certify the destruction of that INFORMATION. BUSINESS ASSOCIATE further agrees not to retain any copies of INFORMATION it destroys or returns, and in cases where the INFORMATION cannot reasonably be returned or destroyed, BUSINESS ASSOCIATE agrees to continue to maintain the INFORMATION in accordance with the PRIVACY REGULATIONS.
- 14) **Mitigation Procedures.** BUSINESS ASSOCIATE agrees to appropriately mitigate any and all violations and breaches of use and disclosure in accordance with the PRIVACY REGULATIONS and this CONTRACT.
- 15) **Sanction Procedures.** BUSINESS ASSOCIATE agrees to develop, establish, implement and enforce policies and procedures containing sanctions for any employee, subcontractor, affiliate, or agent who violates the PRIVACY REGULATIONS and this CONTRACT.
- 16) **Additional Provisions.** This CONTRACT shall be governed by the laws of the State of Maryland. It is the intent of the BUSINESS ASSOCIATE and COVERED ENTITY to comply with all terms and provisions of this CONTRACT and the PRIVACY REGULATIONS. However, BUSINESS

ASSOCIATE shall be excused from performance of this CONTRACT for any period to which it is prevented from performing the services because of an Act of God, war, terrorist act, civil uprising or disturbance, court order, or any other reason beyond the control of the BUSINESS ASSOCIATE. In the event that the CONTRACT or the terms thereof fail to address or comply with the most recent requirements or recent changes to the HIPAA PRIVACY REGULATIONS, then the PRIVACY REGULATIONS shall apply and have binding effect on both PARTIES. If after such time BUSINESS ASSOCIATE or COVERED ENTITY become aware that the CONTRACT fails to address or comply with the PRIVACY REGULATIONS, both PARTIES will, within a reasonable time, in good faith, address and remedy the failure(s) to ensure immediate compliance. If after such reasonable time, BUSINESS ASSOCIATE and/or COVERED ENTITY fail to comply, then either party has the right to terminate this CONTRACT upon written notice to the other party. Both PARTIES further recognize that Amwins Connect Administrators, Inc. enjoys title to "Business Associate" under the PRIVACY REGULATIONS and is recognized as "Covered Entity" only for purposes of this contract.

The COVERED ENTITY hereby understands that there will be times when **Amwins Connect Administrators, INC.** is requested to provide information to the COVERED ENTITY or to the PRODUCER in order to assist in making business decisions regarding plan designs associated with plan costs. Some of this information may be identifiable information regarding subscribers and dependents currently enrolled in the plan.

The COVERED ENTITY agrees that **Amwins Connect Administrators, INC.** can provide such information to the PRODUCER directly if requested. However, if the COVERED ENTITY and/or PRODUCER fail to protect the sensitive information provided, then **Amwins Connect Administrators, INC.** will not be held liable for any complaint or claim filed by an individual based on breach of Protected Health Information (PHI).

The COVERED ENTITY agrees that the PRODUCER has access to the COVERED ENTITY's claims and group information on the online system.

If the box above and in front of this statement is not checked, **Amwins Connect Administrators, INC.** will not provide information other than the minimum necessary required under the PRIVACY REGULATIONS to the PRODUCER.

IN WITNESS WHEREOF, BUSINESS ASSOCIATE and COVERED ENTITY have agreed to the terms and conditions of the above written agreement having the effective date as of the same date that all parties agree to the entire Plan Service Agreement.



PLAN SPONSOR AGREEMENT

The producer has explained the details of the coverage(s) and I, the undersigned acknowledge reading the entire application, including the Claims Funding Agreement and Plan Services Agreement. The answers I have provided are true and complete. I understand that the terms and conditions herein bind the Applicant and Amwins Connect Administrators only when the Applicant receives written approval from Amwins Connect Administrators.

Dated On (Month, Day, Year): _____

Full Legal Business Name: _____

Signature: _____

X

(Must be signed by a person authorized to purchase coverage for this firm.)

Print Name and Title: _____

A hard copy of the Summary Plan Description (SPD) is sent to the Employer enclosed in the Welcome Kit. It is the responsibility of an employer to provide a SPD Description to each employee. We make this SPD available to each employee on-line. However, you MUST communicate the availability of this site, and for employees not having web access, you must offer them on-line access and/or the option to receive a printed copy from you.



PRODUCER SIGNATURE

- I hereby represent that all of the information contained in the Employer Application is correct and I know of nothing unfavorable about this new firm or any individual proposed for benefits (except as noted on the Employer Applications) that has not already been disclosed.
- I have complied with the underwriting rules and regulations and have explained in detail the proposed benefits for the new member firm and its employees.
- I understand that I represent the interest of the Applicant for benefits and have advised my client not to terminate any existing benefits until receiving notice that the benefits being applied for by this application are accepted. I understand that I have no right to bind these benefits, to alter the terms of the employee benefit plan contract or application in any manner or to adjust any claim or benefits under the employee benefit plan contract.
- I understand that I am entitled to the below consulting fees as long as I am the appointed consultant of record for this client and as long as this client with this program.

Amwins Connect Administrators Paying:

- MGA only (MGA will pay Agency and/or Consultant)
- MGA, Agency & Consultant directly
- MGA & Agency (MGA or Agency will pay Consultant)

Indicate Entity being paid with corresponding Tax ID or Social Security Number

Producer (1) Name: _____	Producer (2) Name: _____
Tax ID/Social Security #: _____	Tax ID/Social Security #: _____
Street: _____	Street: _____
City, State Zip: _____	City, State Zip: _____
Telephone Number: _____	Telephone Number: _____
Fax Number: _____	Fax Number: _____
Email Address: _____	Email Address: _____
Commission: _____ PEPM or _____ %	Commission: _____ PEPM or _____ %
Production Split: _____ %	Production Split: _____ %

I have notified the employer not to terminate present coverage until notified in writing by Amwins Connect Administrators, Inc. of acceptance of this application.

Producer Signature 1 <u> X </u> _____	Producer Signature 2 <u> X </u> _____
Date: _____	Date: _____
MGA: _____	Agency: _____
MGA Tax ID #: _____	Agency Tax ID: _____
MGA Address: _____	Agency Address: _____
City, State ZIP _____	City, State ZIP _____
MGA Commission: _____ PEPM or _____ %	Agency Commission: _____ PEPM or _____ %

Amwins Connect Administrators, INC.

Signature: <u> X </u> _____	Date: _____
Effective Date: _____	Approved & Accepted by: _____
Amwins Broker Rep: _____	Amwins Broker Select AM: _____
Comments: _____	