



Agent Contracting Checklist

- DOI licensing (CA)***
- E&O Policy/ Coverage***
- Agent Hierarchy Form***
- W-9 Form***
- Agent Contact Information and
Authorization and Release Application***
Complete all four pages in their entirety.
- Agent Acknowledgement and
Policy & Procedure Sign Off Form and Code of Conduct***
- AHIP Certification***
- Agent Agreement***
Initial each page of Agreement and sign where indicated.
- Assignment of Commission***
Complete and sign where indicated.

**Please email all requested documents to: Susan Stewart, Manager Sales
Operations, sstewart@scanhealthplan.com.**



Agent Hierarchy Form

Agent Name: _____

GA Name: _____

MGA Name: _____

SGA Name: _____

FMO Name: SOUTH BAY HEALTH AND INSURANCE SERVICES



Agent Contact Information

All information is required to complete contracting.

Last Name, First Name, Middle Name
(as it appears on W-9)

Date of Birth

Tax ID# (as it appears on W-9)

Business Address (as it appears on W-9)

City, State, Zip Code (as it appears on W-9)

Phone

Cell Phone

Fax Number

Email Address

Please list all websites and/or website affiliations:

Business office locations for last five years, if applicable:

_____	_____	_____	_____	_____	_____
Business address	City	State	Zip Code	From	To
_____	_____	_____	_____	_____	_____
Business address	City	State	Zip Code	From	To
_____	_____	_____	_____	_____	_____
Business address	City	State	Zip Code	From	To

Professional Designation:

_____	_____	_____
Type of Professional Designation	From	To
_____	_____	_____
Type of Professional Designation	From	To
_____	_____	_____
Type of Professional Designation	From	To

Other insurance agency affiliations for past five years:

_____	_____	_____	_____
Name of Agency	City where agency is located	From	To
_____	_____	_____	_____
Name of Agency	City where agency is located	From	To

Please indicate the service area(s) in which you plan to sell SCAN (select all that apply). Agent MUST have a currently active state DOI license for the service areas selected below).

California

Additional Information:

Please respond to all questions that apply. If your answer to any of the following is "yes", you must provide details on separate attachment.

- | | Yes | No |
|--|--------------------------|--------------------------|
| A. Has your license to sell insurance or HMO Products ever been denied, suspended or revoked by any state? | <input type="checkbox"/> | <input type="checkbox"/> |
| B. Have any complaints been filed against you with the State Department of Insurance or any other insurance regulatory board or agency within the last five years? | <input type="checkbox"/> | <input type="checkbox"/> |
| C. Have you ever been denied appointment or renewal appointment by any insurance and/or managed care company: | <input type="checkbox"/> | <input type="checkbox"/> |
| D. Have you ever been party to a lawsuit relating to the insurance and/or managed care company? | <input type="checkbox"/> | <input type="checkbox"/> |
| E. Have you ever been convicted or are you currently being charged or under investigation for any violation of the law other than minor traffic violations? | | |
| F. Are any legal actions pending against you by any employer, client, former Associate, partner, state board of insurance, law enforcement agency or professional group or organization? | <input type="checkbox"/> | <input type="checkbox"/> |
| G. How long have you sold individual and/or group HMO products? | | _____ |
| H. How long have you been in the insurance business? | | _____ |
| I. Do you speak any foreign language? If so, indicate language: | | |

I certify that the above statements are true and complete and no misrepresentations are contained with the application or attachments.

Signature

Date

Active appointments with insurance and/or managed care companies:

			<u>HMO</u>		<u>PPO</u>		<u>Life</u>		
			Yes	No	Yes	No	Yes	No	
_____	Company Name	From	To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Company Name	From	To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Company Name	From	To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____	Company Name	From	To	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Authorization and Release:

I understand that SCAN Health Plan will verify the information in this application and I hereby authorize SCAN, or its representatives, to contact and obtain information references in this application from an individual present or former client, insurer, corporation or other business entity, regulatory or licensing agency, or state, city or federal agency.

By applying for appointment with SCAN, I extend absolute immunity to, and release and hold harmless from any and all liability: 1) SCAN, its representatives, employees, trustees, directors, and officers; 2) any individual, present or former client, insurer, corporation, or other business entity, regulatory or licensing agency, or state, city or federal agency providing information, their representatives, employees, trustees, directors and officers; 3) any third party for any acts, communications, reports, records, statements, documents, recommendations or disclosures involving me, requested or received by SCAN and its representatives to, from, or by any third party, including otherwise privileged or confidential information.

I certify that the above statements are true and complete and no misrepresentations are contained within the application or attachments.

Print Name

Signature

Date

Application for Appointment includes:

- Completed Contact Information, including signature on Authorization and Release
- Current and valid DOI State Licensure



Agent Acknowledgement Form
and
Policy and Procedure Sign-Off

In the performance of my duties as a contracted Agent for SCAN, I hereby acknowledge the following:

1. In offering products to Medicare beneficiaries, an organization and its contracted agencies/agents may not engage in any of the following practices or activities. ***Prohibited practices*** include, but are not limited to, the following:
 - Discriminatory practices/forgeries
 - Door-to-door solicitations
 - Misrepresentations or activities which would mislead, confuse or misrepresent improper payment
 - Conducting outbound telemarketing in violation of CMS, MIPPA and SCAN policy
 - Unauthorized language interpretations
 - Distribution of incorrect enrollment materials
 - Enrollment and/or marketing at education events
 - Marketing in healthcare settings (i.e., waiting rooms, exam rooms, hospital patient rooms, dialysis centers, pharmacy counter areas)
 - Offering gifts or payments to induce enrollment
 - Accepting gifts or any commissions from affiliated providers, vendors and customers
 - Distribution of disapproved or unapproved marketing materials
2. I will represent SCAN in a responsible, accurate, and respectable manner at all times.
3. I understand that the unsolicited contact of Medicare beneficiaries is prohibited. All appointments must be pre-scheduled, with consent and scope of appointment documented.
4. I will provide accurate information regarding eligibility requirements, plan benefits, grievance, appeals and disenrollment procedures.
5. I will abide by all CMS, State and SCAN marketing guidelines.
6. I will not discriminate against any Medicare beneficiary who is eligible for a SCAN offering.

7. I will not make any statement, claim, or promise that conflicts with, alters, or erroneously expands upon either the information contained within CMS approved materials or SCAN materials
8. I will not mislead, confuse, or misrepresent to potential members about SCAN competitive plans or Medicare.
9. I will not misrepresent myself as an agent of Medicare, Social Security, or any agency of the federal government
10. I will not offer any form of enticement, such as gifts or payments, to induce enrollment by potential members. It is acceptable to offer minor giveaways. Giveaways not to exceed \$15.00 retail.
11. I will identify myself as a contract SCAN Agency/Agent to all prospective or current members.
12. I understand that violation of any of the above will result in disciplinary action up to and including contract termination.

By signing this Acknowledgement Form I, _____, confirm that I have received SCAN Sales Policies and Procedures, including SCAN Code of Conduct, and will abide by all of the requirements set forth above. I also attest that I have read them completely and thoroughly, understand them to the fullest extent, and agree to abide by the guidelines they establish. SCAN will distribute the SCAN Code of Conduct and applicable policies and procedures annually. If at any time I am unclear about a policy or have a question, I will consult SCAN Sales management for further guidance.

Agency / Agent

Date

Regional VP, Sales

Date

A copy of this form has been placed in my individual electronic file with SCAN and a copy can be furnished to me upon my request to the health plan.

SCAN Code of Conduct

SCAN requires Sales Representatives to adhere to the following:

1. Use only collateral provided by SCAN after it has been approved by the appropriate regulatory agencies and released by Marketing.
2. Demonstrate a positive and professional image at all times, and follow dress code policy.
3. Adhere to all SCAN established policies and procedures relative to marketing, enrolling, canceling or disenrolling Medicare beneficiaries.
4. Understand that excessive rapid disenrollments (within first 90 days) and withdrawals prior to enrollment will result in successive disciplinary action, up to and including termination.
5. Understand and adhere to CMS regulations relative to marketing a Medicare product.
6. Understand that complaints and marketing inquiries will be investigated and subject to progressive disciplinary action as appropriate.
7. Understand that the following complaints and marketing inquiries, if substantiated, will result in immediate termination:
 - Forgery/theft;
 - Door to door solicitation;
 - Misrepresentation as Medicare/ Social Security agent/ employee;
 - Knowingly submitting or encouraging enrollments out-of-area (i.e., zip codes not in the CMS approved service area);
 - Enrolling an incompetent beneficiary;
 - Holding applications without going through proper cancellation procedures;
 - Holding applications when it may impact member's effective date;
 - Offering gifts or inducements to enroll;
 - Coercion to sign enrollment form;
 - Health screening (except for ESRD beneficiaries who are not commercial agents);
 - Falsifying enrollment application information;
 - Using unapproved marketing materials; and
 - Blatant misrepresentation of plan benefits or plan premiums.



**Agent Agreement
For Medicare Advantage Products**

THIS AGENT AGREEMENT (“Agreement”) is made and entered this ____ day of _____, 20____, by and among _____ (**Agent**) and the SCAN Health Plan (“SCAN”) entity/entities as designated below:

Designated Legal Contracting Entity	Market	Legal Entity
	California Market Service Areas / Counties	

WHEREAS, SCAN is licensed to operate as a Medicare Advantage health plan in the State of California, and is engaged in the business of arranging for the provision of health care services under certain prepaid health benefit plans to employer groups and individuals.

WHEREAS, Agent is an Agent as defined by SCAN who possesses all requisite permits, licenses and other approvals issued by the regulatory insurance agency of the applicable states in which SCAN operates or other applicable state regulatory agencies to sell prepaid health benefit plans.

I. **Appointment** - Upon required background and licensure verifications, certification and completion of SCAN requirements for appointment, Agent shall hereby be authorized by SCAN to solicit applications for health care coverage offered by SCAN subject to the terms and conditions set forth in this Agreement. It is agreed by the Agent that such appointment includes no provision for any exclusive territorial representation by Agent.

II. **Relationship** – The relationship of Agent to SCAN shall be construed as that of an independent contractor. The relationship of Agent to SCAN shall not be construed to create the relationship of employer and employee. Agent shall be free to exercise his own judgment and discretion as to the persons solicited and the time and place of solicitation within CMS guidelines.

III. **Authority** – Agent is hereby authorized to solicit and prepare applications for policies of health care coverage from acceptable groups or individuals, subject to the following provisions. These provisions are all encompassing to include all products approved by SCAN current and future, which are covered under this Agreement. Some provisions may not be applicable to all products. The provisions are:

a. **Territory.** Applications for coverage may be solicited only within the approved service area in which SCAN is authorized to do business and only for products approved by SCAN, the applicable state regulatory agency, and the Centers for Medicare & Medicaid Services (CMS), where applicable.

b. **Limitations.** When applicable, the Agent is not authorized to:

1. Make, alter or discharge the provisions of any policy;
2. Bind SCAN by making any promise or by accepting any representation or information not contained in the application for coverage;
3. Quote premiums, rate or policy values other than those published by SCAN;
4. Extend the time of payment of any premium or extend the date of the grace period for payment in the policy;

5. Broadcast, publish or distribute any advertisements or other materials referring to SCAN, not originated by SCAN, or which is not SCAN's most current advertisement or other material produced or published by SCAN without first securing SCAN's approval in writing. Agent shall defend and indemnify SCAN and hold SCAN harmless from all acts incurred in any connection thereafter, whether or not well founded, which may be alleged against SCAN and which arose directly or indirectly as a result of any unauthorized action, misuse of advertisements or materials produced by SCAN, or statements or misstatements of Agent or its employees or Subordinate Agencies; and
6. Voluntarily make any payment, assume any liability or incur any expense on SCAN's behalf, except at Agent's own expense, without the prior written consent of SCAN.
7. Subcontract for the performance of contracted services under this Agreement without the prior written consent of SCAN, which shall not be unreasonably withheld or delayed. Agent may subcontract for the provision of such services with entities acceptable to SCAN. A subcontract shall be consistent with the terms and conditions of this Agreement and include an express agreement (i) to perform the obligation of Agent under this Agreement, (ii) that following payment by SCAN to Agent in accordance with the terms and conditions of this Agreement, Agent is solely responsible, and SCAN has no responsibility or liability, for any amounts for contracted services provided to Agent; and (iii) SCAN has no responsibility of liability as a result of nonpayment or other breach by Agent under any approved subcontract. Agent agrees to oversee subcontractor's performance of its obligations under such subcontract and to be accountable to SCAN for the negligent performance or nonperformance of any obligation under such subcontract related to the provision of contracted services under this Agreement.

IV. Responsibilities – With the authority granted herein, Agent and SCAN agree to accept the following responsibilities:

a. **Representation and Service.** Agent agrees to:

1. Represent the provisions and benefits of each policy of coverage adequately and fairly to prospects at time of solicitation in

accordance with applicable state and Federal laws and regulations;

2. Submit to SCAN all completed Medicare Advantage Plan applications for coverage within SCAN specified required timeframe for submission of same, as defined in SCAN's Policies and Procedures. Other product lines will have similar requirements;
3. When applicable, submit check to SCAN made payable to the applicable SCAN entity for any applicable Agent or examination fees;
4. Instruct all employers and individuals contracting for group health coverage with SCAN that premiums are to be sent or delivered only to SCAN. In the event Agent receives a premium payment, then Agent agrees to hold all monies, notes or securities received or collected by Agent in a fiduciary capacity, to promptly remit such funds to SCAN by the close of the next business day following receipt thereof, unless otherwise agreed, and to be fully responsible and accountable to SCAN for all such funds;
5. Provide service to members in a prudent, conscientious and businesslike manner consistent with the highest standards of honesty and integrity and to maintain and promote the relationship between SCAN and members. Agent covenants and agrees that the contract between SCAN and the employer group or individual is the exclusive property of SCAN and Agent has no right or other interest whatsoever in such employer group or individual contract;
6. Observe and comply with the rules and regulations of SCAN, as well as any applicable State and Federal laws now in force or hereafter promulgated pertaining to the conduct of business covered by this Agreement, including but not limited to the Medicare Marketing Guidelines, as amended from time to time; Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), it being understood that such rules and regulations will not interfere with the freedom of action of Agent as previously described in Section II above;
7. Comply with SCAN policies regarding the use of confidential information;

8. Comply with SCAN policies related to sales and marketing activities covered under this Agreement;
 9. Agent shall not solicit any non-healthcare products or services during the appointment in which SCAN Medicare Advantage products are being discussed with perspective policyholders, per CMS rules and regulations;
 10. Comply with all aspects and provisions of the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008 and accompanying rules and regulations, as may be amended from time to time as set forth on Exhibit C MIPPA Addendum;
 11. Comply with all aspects of the SCAN Sales Disciplinary Policy as amended from time to time.
 12. The rapid disenrollment (any policy that is terminated or surrendered prior to month 4 from the effective date of enrollment as reported by CMS) rate related to Agent's effective enrollments should not exceed 10% per month. Rapid disenrollments in excess of 10% can result in corrective action up to and including termination of contract and authority to sell SCAN.
- b. **Records and Examinations.** Agent and SCAN agree to keep complete and accurate records of all transactions connected with the business covered by this Agreement and to make such records available for examination by an authorized representative of SCAN or Agent at any time before or following termination of this Agreement.
- c. **License; Insurance.** Agent and SCAN shall, at all times during the term of this Agreement, be licensed by the applicable state insurance regulatory agency as an insurance agent/Agent and a health plan, respectively. Agent and SCAN shall both have and maintain errors and omissions insurance and such other insurance as may be required and acceptable to SCAN.

Agent is responsible for and will provide assurance and proof to SCAN that the appropriate and applicable licenses are in effect, including all applicable renewal certifications, which allow Agent to legally sell and promote SCAN products. This would apply to the licensure necessary for Agent to have Subordinate Agents working on its behalf. Agent must provide appropriate documentation upon request from SCAN.

- d. ***Disciplinary Proceedings.*** Agent shall promptly notify SCAN within one (1) business day of any disciplinary proceeding relating to the license issued to Agent or its Subordinate Brokers and Agents.

- e. ***Confidentiality.*** Agent shall maintain the confidentiality of any confidential or proprietary information of SCAN, including, but not limited to, documentation regarding SCAN business policies, practices, procedures, agreements, business plans or arrangements, financial information or projections, provider or client lists and any other business related matters disclosed or made available by SCAN, in whatever form, relating to SCAN or to any subsidiary, affiliate, or owner Health Plan (“Confidential Information”). Confidential Information shall also include medical information of members/prospective members, identities of members/prospective members, information regarding the families of members/prospective members, or the fact that a member/prospective member has sought or is receiving treatment, or any other personal and/or identifying information regarding members/prospective members.

Agent agrees that: (i) Agent is only authorized to use Confidential Information to the extent necessary in the performance of the services provided herein; (ii) Agent may not disclose Confidential Information without prior written permission; (iii) Agent may not remove Confidential Information from SCAN premises, to include meeting locations, without prior written permission; and (iv) Agent may only disclose Confidential Information to SCAN employees who have a need for the information to perform their tasks.

Agent understands and acknowledges that any unauthorized use or disclosure of Confidential Information may subject Agent to be liable to SCAN and/or others for claims, demands or suits against SCAN directly or indirectly resulting from the unauthorized use or disclosure. Agent expressly agrees that in the event of any such claims, demands or suits against SCAN, Agent will indemnify and hold SCAN harmless for all expenses, including but not limited to any attorney fees incurred as a result of such claims, demands or suits specifically found to be directly or indirectly attributed to the unauthorized use or disclosure of Confidential Information. Agent further acknowledges that any material breach of this provision would result in irreparable harm to SCAN and that SCAN has the right to seek an injunction and other legal and equitable rights and remedies available under the law.

f. ***Solicitation of Personnel.***

1. Agent agrees, during the term of this Agreement, and for a period of one hundred and eighty (180) days after the termination of this Agreement, not to solicit, entice, take away, or employ any person employed or any individual contracted directly with SCAN without prior written approval from SCAN.
2. Notwithstanding the above, SCAN may re-employ agents of Agency who were previously employed or contracted directly by SCAN, with notice to Agent.

g. ***Member Solicitation.*** Throughout the term of this Agreement and for a period of eighteen (18) months thereafter, Agent shall not, without SCAN prior written consent, directly or indirectly engage in the Solicitation, as defined below, of any Eligible Medicare Beneficiary. For the purposes of this Section, "Solicitation" shall mean any oral or written statement or other action by Agent or Agency's agents that may be reasonable interpreted to be intended to persuade any Eligible Medicare Beneficiary to disenroll from SCAN, enroll in another Medicare Advantage or PDP plan, or enroll in any other health plan, including traditional Medicare. Notwithstanding any other provision to the contrary, SCAN shall, in addition to any other remedies provided for under this Agreement, have the right to seek a judicial temporary restraining order, preliminary injunction, or other equitable relief against Agent to enforce its rights under this Section

h. ***Certification.***

1. Agent and SCAN agree that all sales and marketing personnel must be approved, certified and re-certified annually by SCAN and/or such other agency and/or organization which SCAN, at its sole discretion, deems necessary and proper to conduct this certification prior to commencing sales. SCAN, at its sole discretion, may require Agency to immediately relieve certain sales and marketing personnel from marketing SCAN product(s) upon written notice to Agent by SCAN.
2. All personnel employed or contracted in the sales or marketing field must receive and pass designated training by SCAN.
3. All personnel in the field are subject to a mock evaluation following initial certification training, "ride-along" observations by SCAN, and additional "ride-along" by SCAN or its designee,

as required by CMS or SCAN's Policy and Procedures, whereby personnel would be rated according to several compliance factors. A score of eighty-five percent (85%) or greater must be obtained for the observation or appropriate corrective action will be required. In the event Agent performs mock evaluations on behalf of SCAN as its designee, the Agent must submit its criteria and schedule for ride-along evaluation and an attestation of their processes for consideration and approval by SCAN.

4. All personnel in the field must be available for an annual recertification process which includes training and re-examination with a score of eighty-five percent (85%) or greater.
 - i. **Policies and Procedures.** Agent agrees to abide by the Policies and Procedures as established by SCAN and communicated to agent and shall require all Subordinate MGAs to abide by such Policies and Procedures. SCAN shall make best efforts to notify Agent of changes in SCAN's Policies and Procedures within thirty (30) days of the effective date
 - j. **Audits, Inspection, Oversight and Enforcement.** SCAN and Agent agree that, after providing written notice, SCAN or its designee will conduct routine and random audits of the facilities, systems, books, records, agreements, policies and procedures or Agent for the purpose of determining whether Agent has complied with SCAN policy and procedure, CMS Medicare marketing Guidelines, MIPPA regulations, this Agreement and all applicable Exhibits and Addendums. In the event of an audit the Agent agrees to provide copies of enrollment records (including, but not limited to, enrollment forms, leads, scope of appointment forms or other documents) within four (4) business days of request. Agent is required to store said documents for a period of ten (10) years in order to provide SCAN, CMS or other regulatory agency, or their designees access to these records upon request. In addition, Agent agrees that SCAN has the right to conduct pre-assessment audits to determine Agent's ability to ensure compliance and ongoing oversight of sales activities performed by Agent in accordance with this Agreement. SCAN reserves the right to require reporting, in a format to be mutually agreed, sufficient to demonstrate SCAN oversight of its Agents to ensure compliance with the terms of the Agreement as well as any other applicable State or Federal laws, rules or regulations, as may be amended from time to time.

V. **Compensation**

- a. **Commissions.** Commissions shall be computed and paid in accordance with the rates and provisions set forth in the current Exhibit A as may be amended by SCAN in accordance with CMS regulations. The allocated portion of the compensation rate shall be paid directly to the Agent unless an assignment of commissions form has been submitted to and been approved by SCAN. SCAN shall have a first or priority lien on all commissions payable hereunder for any debt due from Agent to SCAN and may deduct and offset from any commissions due Agent under this Agreement any debt due and owed to SCAN or from Agent to third parties for SCAN. Agent shall not be entitled to any commissions on any individual coverage issued as a result of conversion under any employer group plan covered by this Agreement unless approved by senior management.
- b. **Legal Proceedings.** Agent shall not institute legal proceedings of any kind or character on behalf of SCAN or on behalf of or against any policyholder in connection with any matter pertaining to business covered by this Agreement. Agent agrees to promptly notify SCAN, in writing, of the institution of any legal proceedings against Agent in connection with the business covered by this Agreement. Furthermore, Agent and SCAN agree to indemnify and hold the other harmless for any judgments, settlements, attorney fees or other expenses resulting from any unauthorized, negligent or unlawful acts, omissions or statements by Agent or SCAN.
- c. **Property.** All books, contracts, records, rate manuals, advertisement materials, enrollment forms, applications, ID cards, supplies, leads, etc. furnished by SCAN to Agent shall remain the property of SCAN and shall be immediately returned upon demand or termination of this Agreement.
- d. **Policy and Compensation Changes.** Upon written notice to Agent, SCAN shall have the right at any time to:
1. Discontinue or withdraw approval to sell any type of policy in any of its services areas;
 2. Introduce the issuance of, in territories designated by SCAN, new types of policies and determine the rate of commission payable thereon; and

3. Increase or decrease the rate of commissions payable hereunder subject to CMS regulations and guidance, provided that such change shall be applicable only to policies first issued on or subsequent to the effective date of change.

VI. **Disciplinary Actions** – The parties agree that Agent shall be subject to disciplinary action, in accordance with the SCAN Disciplinary policy, for violation of SCAN policy and or applicable law, rule, guideline or instruction issued by any regulatory agency having authority over the activities covered under this Agreement. The parties agree that disciplinary actions may include but are not limited to the following:

- a. Retraining or re-education;
- b. Recertification;
- c. Ride-alongs;
- d. Monitoring;
- e. Desktop of on-site audits;
- f. Suspension of sales;
- g. Termination;
- h. Secret Shopping; and
- i. Regulatory reporting.

VII. **Term and Termination** – This Agreement is effective as of the day and year first above written and shall continue for a term of one (1) year unless terminated earlier as provided herein. Thereafter, on the anniversary date, this Agreement shall automatically renew for terms of one (1) year each, unless terminated as provided herein. Termination of this Agreement may be effected by the following:

- a. By either Agent or SCAN by providing at least sixty (60) days prior written notice to the other party, provided however, that in the event of termination under this section, any commission due the Agent shall be payable to Agent within ninety (90) days after the effective date of termination to allow for chargebacks, of such commissions, if due.
- b. With thirty (30) days notice, and at the discretion of SCAN, at the end of any rolling ninety (90) day period in which the rate of Agent exceeds 10% rapid disenrollment and no waiver of such a percentage had been approved.
- c. Immediately, and at the discretion of SCAN, in the event Agent materially (i) breaches the terms or conditions of this Agreement, (ii) fails to comply with SCAN Policy and Procedures, (iii) intentionally violates any compliance, regulatory, or ethical provisions, (iv) causes imminent harm to the reputation of SCAN or its ability to conduct business in its service areas

or future service areas, (v) intentionally commits fraud or malfeasance, (vi) ceases to be a qualified and duly licensed insurance Agent under applicable rules and regulations of the applicable state, (vii) fails to comply with the Medicare Marketing Guidelines, (viii) fails to comply with the annual recertification process, (ix) fails to provide SCAN with requested information within four (4) business days in response to a regulatory request from CMS or any other governmental agency having authority over the activities covered under this Agreement or has sufficient CMS or SCAN violations sufficient to initiate a termination under SCAN Disciplinary policy. If this Agreement is terminated pursuant to this Section VII item c, Agent's right to any compensation hereunder shall automatically terminate as of the effective date of termination.

VIII. **Notice** – All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if delivered personally or mailed by certified mail, postage prepaid, or return receipt requested, as the addresses set forth below:

If to SCAN: SCAN Health Plan
3800 Kilroy Airport Way, Ste. 100
Long Beach, CA 90806
Attn: SVP, National Sales

With a copy to: _____

If to Agent: _____

Attn:

IX. **Waiver** – The failure of either part to enforce any of the terms and conditions of this Agreement shall not constitute a waiver by such party of its right to do so, nor shall it be deemed to be an act of ratification or consent.

X. **Compliance with Laws** – The parties shall at all times comply with applicable State and Federal laws, rules and regulations, including but not limited to, the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the HIPAA Business Associate Addendum attached hereto as Exhibit B.

XI. **Dispute Resolution** – In the event a dispute between SCAN and Agent arises out of or is related to this Agreement, the parties to the dispute shall meet and negotiate in good faith to attempt to resolve the dispute. If, after at least thirty

(30) days following the date one Party provided written notice of the dispute to the other Party, the dispute is not resolved, and if any Party wishes to pursue the dispute, the dispute shall be submitted to binding arbitration conducted in the State and County where SCAN's primary place of business is located in accordance with the Commercial Arbitration Rules of the American Arbitration Association as they are in effect when the arbitration is conducted. In no event may arbitration be initiated more than six (6) months following providing written notice of the dispute. The arbitrators shall have no authority to award any punitive or exemplary damages, or to vary or ignore the terms of this Agreement, and shall be bound by controlling law.

- XII. **Survival** – Notwithstanding herein to the contrary, the parties acknowledge that any provisions regarding confidentiality and the protection of health information in this Agreement, or any addendum, exhibits, or amendments hereto, shall survive the termination or expiration of this Agreement.
- XIII. **Applicable Law** – Any question of law concerning the validity, construction, interpretation, administration or effect of this Agreement shall be governed in accordance with the laws of this state in which the applicable SCAN entity operates.
- XIV. **Assignment** – The interest of Agent in this Agreement and all rights hereunder, including specifically Agent's right to receive commissions, is not assignable without the prior written consent of SCAN.
- XV. **Amendment** – No provision of this Agreement may be amended, modified or otherwise altered unless in writing and executed by Agent and an authorized officer of SCAN. Notwithstanding the above, the terms contained in Exhibit A attached hereto may be amended at any time at SCAN's discretion and with proper notice to Agent. In addition, SCAN reserves the right to unilaterally amend this Agreement if required to do so pursuant to applicable local, state and federal governmental laws, rules and regulations.
- XVI. **Severability** – If any provision of this Agreement or portion thereof is declared invalid or unenforceable, the remaining provisions shall nevertheless remain in full force and effect.
- XVII. **Entire Agreement** – This Agreement is the entire agreement between the parties and supersedes and voids any previous agreements between the parties. This Agreement, together with all attachments hereto or made a part hereof, shall constitute the entire agreement between Agent and SCAN.

IN WITNESS WHEREOF, this Agreement has been entered into by the parties the day and year first written above.

AGENT

SCAN

By: _____

By: _____

Name: _____
(Print)

Name: _____
(Print)

Title: _____

Title: _____

Date: _____

Date: _____

AGENCY AND AGENT ADDENDUM

This Addendum is for Agencies/Agents who are certified, licensed and appointed to sell Medicare Advantage products. Due to the high degree of compliance necessary and the fact that Medicare Advantage products are governed by State and Federal regulations, the Certified Agent or Agency needs to comply with all SCAN Policies and Procedures, including but not limited to those set forth below.

Agency / Agent Qualifications

To be an authorized SCAN Agency/Agent, you must:

- Complete Agency/Agent credentialing administered by SCAN or its designee.
- Complete the SCAN Agency/Agent certification training and pass the required certification examination.
- Be a licensed health Agent in the state(s) in which SCAN operates, in good standing, and supply SCAN with a copy of the license upon request.
- Be appointed by SCAN as an Agency/Agent, where applicable.
- Have an executed agreement with FMO, SGA, MGA or GA, as applicable.
- Agree to comply with all legal compliance and regulatory guidance in accordance with applicable State and Federal laws, and SCAN policies.
- Agree to receive continuing education relative to the current Medicare Advantage products and comply with any changes that occur relative to this program.
- Attend informational meetings in order to stay informed of compliance and regulatory changes, procedural changes, network changes, etc.
- Pass the annual recertification examination administered by SCAN, or its designee.
- Agree to participate in field evaluations and secret shopping assessments, as required by CMS and SCAN.

- Have reasonable accessibility for receiving communications concerning immediate regulatory or network changes (i.e., phone, email, fax, pager, voicemail, etc.). Email address is mandatory.
- Maintain a proficiency in, and knowledge of, SCAN's Medicare Advantage products as well as all necessary compliance requirements.
- Agree to adhere to SCAN sales performance and disciplinary standards as set forth in SCAN's policies and procedures, herein incorporated by reference.
- Have an executed HIPAA Agreement for Agents affiliated with an Agency, or have a Business Associate Agreement for Agents directly contracted with SCAN.
- Have a current year AHIP certification and supply a copy of the certification to SCAN.

Errors and Omissions

Agency and Agent shall, at all times during the term of this Agreement, maintain Errors and Omissions Insurance in amounts consistent with industry standards, but at no time less than \$1,000,000 per occurrence and \$1,000,000 aggregate limit, with a reasonable deductible, or the applicable state required coverage amounts, and to provide evidence of such coverage upon request by SCAN.

Individual Leads

SCAN is not responsible for supporting the Agency or Agent with leads or financial support in their prospecting efforts. During a visit with the prospect, Agency or Agent can present the SCAN Medicare Advantage products with full disclosure and enroll the prospect. Referrals may only be sought in accordance with SCAN policy and applicable CMS guidelines. Agency or Agent must follow all guidelines and regulations that govern the proper procedure for prospecting and selling the SCAN product, including all requirements set forth under MIPPA and the CMS Medicare Marketing Guidelines.

Commissions – Individual Sales

Enrollments must be a result of the direct contact between the Agent and the individual prospect. SCAN will pay a commission for each individual whom Agent enrolls in a SCAN Medicare Advantage Plan. Commissions are paid per the current commission schedule set forth in Exhibit A. The allocated portion of the commission payments will be paid directly to the Agent during the normal commission payment schedule as set forth by SCAN policy unless otherwise agreed by the parties.

By: _____

Name: _____
(Print)

Date: _____

EXHIBIT A
MEDICARE ADVANTAGE PRODUCTS
SCHEDULE OF COMMISSIONS

I. Definitions:

- a. Field Marketing Organization (FMO) – Organization that meets or exceeds the SCAN Engagement Criteria for FMO’s and meets all eligibility requirements for an FMO as established b SCAN and State and Federal law.
- b. General Agency (GA) – Agency that represents a group of Agents that produce an agency minimum number of effective enrollments per year and that may be directly contracted with SCAN or a Managing General Agency (MGA) or Supervising General Agency (SGA) to produce under it.
- c. Exclusive Agent/Agency – Agency/Agent who is only licensed and appointed with SCAN and represents only SCAN Medicare Advantage products within a SCAN geographic area. Agency/Agent agrees not to represent or sell other entities’ Medicare Advantage products including, but not limited to, HMO, PPO, Regional PPO, and PFFS plans. Exclusive Agencies/Agents must achieve a monthly minimum number of 10 verifiable and documented sales presentations, one of which may be to a SCAN approved monitor.
- d. Independent Agency/Agent – Non-employee sales Agency/ Agent who is either directly contracted with SCAN or is contracted with a General Agency, MGA, SGA or FMO.
- e. Initial Compensation – Compensation that is paid only when the beneficiary is a new enrollee to Medicare or to an MA/MAPD plan, validated by the CMS compensation reports.
- f. Renewal Compensation – Compensation that is paid when the beneficiary is not new to Medicare or to an MA/MAPD plan, validated by the CMS MARx compensation reports. It also refers to the annual renewal compensation based on monthly SCAN enrollments.
- g. Lifetime Renewals – For any new business written for SCAN, the Agent will receive renewal payments for the lifetime of the member. ~~Renewal~~

payments will no longer be capped at six years and applies to all existing membership.

II. Compensation Schedule – Per CMS, Initial Compensation is paid only when the beneficiary is a new enrollee to Medicare or MA/MAPD, as validated by the CMS MARx compensation reports. All compensation will be paid as Renewal Compensation unless CMS compensation reports indicate the compensation should be Initial Compensation. All Agents will be compensated by SCAN at the rates indicated herein unless an alternative MIPPA compliant compensation plan is submitted with documented approval from SCAN. For enrollments with effective dates in the 2012 calendar year, the following compensation schedules will be in effect. Compensation for enrollment prior to 2012 will be calculated in accordance with the commission schedule in effect at that time of the enrollment.

III. Compensation Schedule (Beginning with 1/1/2012 Effectives)

Sales Entity	Initial Compensation	Renewal Compensation Years 2 and Beyond*
CA Independent Agents	\$503	\$252

*Per CMS, Initial compensation is paid only when the beneficiary is a new enrollee to Medicare or MA/MAPD, as validated by the CMS compensation reports. All compensation will be paid as renewal compensation unless CMS compensation reports indicate the compensation should be Initial Compensation. Note: SCAN renewal compensation continues as long as the beneficiary is a member of SCAN Health Plan.

IV. Markets:

California Market

Contra Costa, Kern, Los Angeles, Orange, Riverside, San Bernadino, San Diego, San Francisco, San Joaquin, Santa Clara and Ventura Counties.

V. Requirements:

- a. All compensation will be paid as Renewal Compensation unless CMS compensation reports indicate the compensation should be Initial

Compensation. All Agents will be paid the compensation indicated unless an alternative MIPPA compliant compensation plan is submitted with documented approval from SCAN.

- b. Renewal Compensation will be paid as Lifetime Renewals, subject to continuous member enrollment, in accordance with CMS guidelines for all sales that do not qualify for Initial Compensation.
- c. The directly contracted Agent that is paid their portion of Initial Compensation or the Renewal Compensation will continue to receive their portion of Renewal Compensation as set forth in the Compensation Cycle, provided the member remains continuously enrolled with SCAN and an agreement with the Agent remains in place, subject to ongoing CMS guidance and policy changes.
- d. SCAN will pay the Agent the applicable Initial or Renewal Compensation consistent with MIPPA regulations, provided the Agent remains in good standing with SCAN.
- e. Agent must attest, at minimum annually, that they are in compliance with the compensation requirements and agree to audits of such relevant records by SCAN upon reasonable notice.
- f. The SCAN assigned Agent ID indicated on the enrollment application identifies the Agent of Record and is used to determine whom to pay for the enrollment.
- g. Subject to an assignment of commissions, the contracted Agent who is paid the Initial Compensation will continue to receive Renewal Compensation, as long as the member remains continuously effective with SCAN and an agreement with the Agent remains in place. The directly contracted Agent must be contracted with SCAN, certified and in good standing, subject to ongoing CMS guidance and policy changes.
- h. If an enrollee leaves the plan prior to month four (4), no compensation is earned and a one hundred percent (100%) chargeback will be made to compensation calculations (90-day chargeback period). Initial Compensation will be prorated months 4 – 12, if the member leaves after 3 months; renewal compensation is not prorated if the member leaves after 3 months.
- i. In accordance with CMS guidelines, as amended from time to time, if a member changes from one SCAN product to another SCAN product, no additional compensation will be paid, regardless of whether a new

application is required. The original Agent will continue to receive renewal compensation based on the original effective date, as long as there has been no break in coverage.

- j. Renewal Compensation for effective dates prior to January 1, 2012 is subject to the sales compensation program in effect at the time of the original enrollment.
- k. Compensation disputes must be submitted in writing; SCAN will research the issue and respond in writing as promptly as possible.
- l. SCAN reserves the right to alter the commission schedule and guidelines at any time provided that a thirty (30) day notice is provided to contracted agents. SCAN will also alter this schedule at any time to remain compliant with CMS, state or federal guidelines.

VI. ***Miscellaneous***

Both parties agree that SCAN has a vested interest in its members' ongoing participation with SCAN. In recognition of this fact, Agency/Agent agrees to not attempt to move the members between Medicare Advantage Plans without the approval of the health plan. A pattern of violation of this provision by Agency/Agent is subject to termination with cause by SCAN pursuant to the termination provisions of this Agreement.

This Exhibit A may be amended at any time at SCAN's discretion and with proper notice to the Agency/Agent.

In the event of any conflicting terms between this Exhibit A and the main body of the Agreement, this Exhibit A shall supersede as applicable.

EXHIBIT B
HIPAA BUSINESS ASSOCIATE ADDENDUM

This Business Associate Addendum (“Addendum”) is by and between SCAN Health Plan on behalf of itself and any of its wholly-owned subsidiaries (collectively referred to herein as “SCAN” or “Covered Entity”) and Agency/ Agent (“Business Associate” or “Vendor”), and is effective as of January 1, 2012.

RECITALS

- A. WHEREAS SCAN wishes to disclose certain information in Business Associate, some of which may constitute Protected Health Information (“PHI”) or Electronic Protected Health Information (“ePHI”), as defined in the Federal regulations set forth at 45 C.F.R. §§ 160 and 164 (the “Privacy Rule” and “Security Rule”);
- B. WHEREAS SCAN and Business Associate intend to protect the privacy and provide for the security of PHI and/or ePHI disclosed to Business Associate in compliance with the Privacy Rule and Security Rule;
- C. NOT THEREFORE, in consideration of the mutual promises below and the exchange of information pursuant to this Addendum, the parties agree as follows:

I. DEFINITIONS

- a. “*Breach*” means the unauthorized acquisition, access, use or disclosure of PHI without regard to whether such access, use or disclosure compromises the security or privacy of the PHI such that the Breach poses a significant risk of financial, reputational, or other harm to the individual, as provided in 45 C.F.R. § 164.402.
- b. “*Business Associate*” shall have the meaning given to such term at 45 C.F.R. § 160.103. For the purposes of this Addendum, Vendor is the Business Associate.
- c. “*Covered Entity*” shall have the meaning given to such term at 45 C.F.R. § 160.103. For purposes of this Addendum, the Covered Entity is SCAN.
- d. “*Designated Record Set*” has the meaning assigned to such term in 45 C.F.R. § 160.501.

- e. *“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 (or person), to have occurred.
- f. *“HIPAA”* or “Health Insurance Portability and Accountability Act of 1996” is the law under which the Privacy and Security Rules were promulgated.
- g. *“HITECH Act”* or “Health Information Technology for Economic and Clinical Health Act” are those provisions set forth in Title XIII of Public Law III-5 as enacted on February 17, 2009.
- h. *“Individual”* shall have the meaning given to such term at 45 C.F.R § 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 C.F.R § 164.502(g).
- i. *“Privacy Rule”* is the regulation entitled “Standards for Privacy of Individually Identifiable Health Information,” promulgated under HIPAA and/or the HITECH Act that is codified at 45 C.F.R. parts 160 and 164, Subparts A, D and E.
- j. *“Protected Health Information”* (“PHI”) and *“Electronic Protected Health Information”* (“ePHI”) shall have the meaning given to such terms at 45 C.F.R § 160.103.
- k. *“Required by Law”* shall have the meaning given to such term at 45 C.F.R. § 164.103.
- l. *“Secretary”* shall mean the Secretary of the United States Department of Health and Human Services or designee.
- m. *“Security Rule”* is the regulation entitled “Security Standards for the Protection of Electronic Protected Health Information,” promulgated under HIPAA and/or the HITECH Act that is codified at 45 C.F.R., parts 160 and 164, Subparts A, C and d.
- n. *“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.

II. OBLIGATIONS OF BUSINESS ASSOCIATE

- a. **Limitation(s) on Uses and Disclosures.** Business Associate agrees to not use or disclose PHI or ePHI other than as permitted or required by this Addendum or as Required By Law. Business Associate shall also comply with any further limitations on uses and disclosures agreed to by Covered Entity in accordance with 45 C.F.R. 164.522 provided that such agreed upon limitations have been communicated to Business Associate. Except as otherwise limited in this Addendum, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, Covered Entity as specified in any written Addendum between the parties, provided that such use or disclosure would not violate the Privacy Rule if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.
- b. **Permitted Uses and Disclosures.** Business Associate may use and disclose PHI and/or ePHI created or received pursuant to this Addendum as follows:
- i) To carry out the purposes of this Addendum. Business Associate may use and disclose Covered Entity's PHI and/or ePHI received or created by Business Associate (or its Agents and subcontractors) in performing its obligations pursuant to this Addendum, solely in accordance with the specifications set forth in this Addendum.
 - ii) Use for Management and Administration. Business Associate may use PHI and/or ePHI created or received in its capacity as a Business Associate of Covered Entity for the proper management and administration of Business Associate, if such use is necessary 1) for the proper management and administration of Business Associate or 2) to carry out the legal responsibilities of Business Associate.
 - iii) Disclosure for Management and Administration. Business Associate may disclose PHI and/or ePHI created or received in its capacity as a Business Associate of Covered Entity for the proper management and administration of Business Associate if 1) the disclosure is Required by Law or 2) Business Associate (a) obtains reasonable assurances from the person to whom the PHI and/or ePHI is disclosed that it will be held confidentially and used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person and (b) the person agrees to notify Business Associate of any instances of which it becomes aware in which the confidentiality and security of the PHI and/or ePHI has been breached.

- iv) **Data Aggregation Services.** Business Associate may aggregate the PHI and/or ePHI created or received pursuant this Addendum with the PHI and/or ePHI of other covered entities for the purpose of providing Covered Entity with data analyses relating to the health care operations of Covered Entity (as defined in 45 C.F.R. § 164.501).
- v) **De-Identification of PHI and/or ePHI.** Business Associate may de-identify any and all PHI and/or ePHI received or created pursuant to this Addendum, provided that the de-identification process conforms to the requirements of 45 C.F.R. § 164.514(b)
- c. **Nondisclosure.** Business Associate shall not use or further disclose Covered Entity's PHI and/or EPHI otherwise than as permitted or required by this Addendum or as Required by Law.
- d. **Safeguards.** Business Associate shall use appropriate administrative, physical, and technical safeguards, including, among others, policies and procedures regarding the protection of PHI and/or ePHI and the provision of training on such policies and procedures to applicable employees, independent contractors and volunteers, that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI and/or ePHI that Business Associate creates, receives, maintains or transmits on behalf of Covered Entity.
 - i. With respect to ePHI, 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. 164.310, 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 ePHI that it creates, receives, maintains, or transmits on behalf of SCAN. Business Associate acknowledges that, effective the later of the Effective Date of this Addendum or February 17, 2012, (a) the foregoing safeguards, policies and procedures requirements shall apply to Business Associate in the same manner that such requirements apply to SCAN and (b) Business Associate may be liable under the civil and criminal enforcement provisions set forth at 42 U.S.C. 130d-5 and 1320d-6, as amended from time to time, for failure to comply with the safeguards, policies and procedures requirements and any guidance issued by the Secretary from time to time with respect to such requirements.

- ii. With respect to ePHI, Business Associates shall ensure that any Agent, including a subcontractor, to whom it provides ePHI, agrees to implement reasonable and appropriate safeguards to protect it.
- e. **Reporting of Breaches.** Except as specifically provided in subsection (d)(ii), Business Associate agrees to report to Covered Entity any Breach of Unsecured PHI without unreasonable delay and in no case later than ten (10) calendar days after Discovery of a Breach. Such notice shall include the identification of each individual whose Unsecured PHI has been, or is reasonably believed by Business Associate, to have been, accessed, acquired, used 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 and responding to the Breach. Notification of Breach or potential Breach under this Addendum shall be made to:
- i. **Determination of Significant Risk.** Business Associate specifically agrees that it shall be SCAN's right and responsibility to determine whether a Breach compromises the security or privacy of the PHI such that the Breach poses a significant risk of financial, reputational, or other harm to the individual.
 - ii. **Exceptions to Reporting Obligation.** Business Associate shall not be required to report an individual Breach to Covered Entity that is described in this subparagraph (ii) as follows:
 - (a) The unintentional acquisition, access, or use of PHI by a workforce member or person acting under the authority of Business Associate, if such acquisition, access, or use was made in good faith and within the scope of authority granted by such Business Associate and does not result in further acquisition, access, use or disclosure in a manner not permitted under the Privacy Rule.
 - (b) Any inadvertent disclosure by a person who is authorized to access PHI at Business Associate to another person authorized to access PHI at Business Associate, and the information received as a result of such disclosure is not further acquired, accessed, used or disclosed in a manner not permitted under the Privacy rule.
 - (c) Any disclosure of PHI where the Covered Entity or Business Associate has a good faith belief that an unauthorized person to whom the disclosure was made would not reasonably have been able to retain such information.

Business Associate shall retain the documentation required by this subparagraph (ii) and shall make it available to SCAN upon request as appropriate in a format as mutually agreed between the parties. Business Associate shall provide SCAN with any further information or documentation that SCAN requests related to such Breach.

- f. ***Additional Responsibilities in the Event of a Breach.*** Business Associate shall take prompt steps to limit or avoid the recurrence of any Security Breach and take any other action pertaining to such unauthorized access or disclosure required by applicable federal and state laws and regulations. Business Associate must comply with this provision regardless of any actions taken by Covered Entity. Business Associate further agrees to mitigate, to the extent practicable, any harmful effect that becomes known to Business Associate as a result of a breach or a use or disclosure of PHI by Business Associate in violation of the requirements of this Addendum.
- g. ***Use of Agents and Subcontractors.*** Business Associate shall ensure that any of its Agents and Subcontractors to whom it provides PHI and/or ePHI created or received pursuant to this Addendum agree to the same restrictions, conditions and safeguards that apply to Business Associate pursuant to this Addendum with respect to such PHI and/or ePHI. With respect to the obligations of Sections II.d. and II.e. Hereof, Business Associate represents that any Agent or Subcontractor shall be obligated to notify Business Associate of any Breach within 10 calendar days in the same manner and according to the same terms as provided herein. In no event shall Subcontractor, without Covered Entity's prior written approval, provide PHI received from, or created or received by Business Associate on behalf of SCAN to any employee or Agent, including a Subcontractor, if such employee, Agent or Subcontractor receives, processes or otherwise as access to the PHI outside of the United States.
- h. ***Availability of Information to Covered Entity.*** Within five (5) business days of receipt of a request from Covered Entity, Business Associate shall make available to Covered Entity such information as Covered Entity may require to fulfill Covered Entity's obligations to provide access to, and a copy of, PHI and/or ePHI pursuant to this Addendum in accordance with the Privacy Rule, including but not limited to 45 C.F.R. § 164.524. If an individual requests such information directly from Business Associate, Business Associate must notify Covered Entity in writing within five (5) business days. Business Associate shall not give the Individual access to the information unless access is approved by Covered Entity. Covered Entity shall have full discretion to determine whether the Individual shall be given access.
- i. ***Amendment of PHI.*** Within five (5) business days of receipt of a request from Covered Entity, Business Associate shall make Covered Entity's PHI

and/or ePHI available to Covered Entity so that Covered Entity may fulfill its obligations to amend such PHI and/or ePHI pursuant to the Privacy Rule, including but not limited to, 45 C.F.R. § 164.526. Business Associate shall incorporate any amendments to any of Covered Entity's PHI and/or ePHI maintained by Business Associate.

- j. **Accounting of PHI.** Within (5) business days of notice by Covered Entity of a request for an accounting of disclosures of PHI, Business Associate shall make available the PHI, including ePHI, to Covered Entity as required for Covered Entity to fulfill its obligations to provide an accounting pursuant to the Privacy Rule, including but not limited to, 45 C.F.R. § 164.528. Business Associate shall implement a process that allows for such an accounting.
- k. **Availability of Books and Records.** Business Associate shall make its internal practices, books and records relating to the use and disclosure of PHI, including ePHI, created or received pursuant to this Addendum available to the Secretary of the United States Department of Health and Human Services, for the purpose of determining Covered Entity's compliance with the Privacy and Security Rules as set forth in 45 C.F.R. § 160.310.
- l. **Record Retention.** Subject to section 5 below, Business Associate shall retain all PHI and/or ePHI received from Covered entity, or created or received in the course of performing its obligations, for the duration of the term of this Addendum.
- m. **Minimum Necessary Amount of PHI.** Business Associate acknowledges that it shall request from SCAN and so disclose to its affiliates, agents and subcontractors or other authorized third parties, only (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 or its affiliates, Agents, subcontractors or other authorized third parties, to the minimum necessary data to accomplish the intended purpose of such requests or disclosures. In all cases, Business Associate shall request and disclose PHI only in a manner that is consistent with guidance issued by the Secretary from time to time.
- n. **Standard Transactions.** 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.
- o. **Data Ownership.** Business Associate acknowledges that Covered Entity is the owner of all PHI and/or ePHI.

- p. **Mutual Indemnification.** Each party (the “Indemnifying Party”) shall indemnify and hold harmless the other party (the “Indemnified Party”) including any of the Indemnified Party’s affiliates, directors, officers, employees and Agents from and against any claim, cause of action, liability, damage, cost or expense (including reasonable attorney’s fees) arising out of or relating to any Breach or other non-permitted use or disclosure of PHI or ePHI, failure to safeguard PHI or ePHI, or other breach of this Addendum by the Indemnifying Party or any of the Indemnifying Party’s affiliates, directors, officers, employees, Agents or subcontractors.

III. COVERED ENTITY’S OBLIGATIONS

- a. **Notice of Privacy Practices.** SCAN shall notify Business Associate of any limitation(s) in SCAN’s or any applicable Covered Entity’s notice of privacy practices that are produced 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. **Revocation of Authorization.** SCAN 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 PHI.
- c. **Restrictions.** SCAN shall notify Business Associate of any restriction to the use or disclosure of PHI that SCAN 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 PHI.

IV. AUDITS, INSPECTION AND ENFORCEMENT

Covered Entity, after providing ten (10) business days’ written notice, may inspect the facilities, systems, books, records, Addendums, policies and procedures relating to the use or disclosure of PHI pursuant to this Addendum for the purpose of determining whether the Business Associate has complied with this Addendum.

V. TERM AND TERMINATION

- a. **Termination by Either Party for Material Breach.** Either party may terminate this Addendum immediately if such party determines that the other party has acted or failed to act in a manner that constitutes a material breach of this Addendum. Each party acknowledges that a material breach would result in

irreparable harm to the other party and that such other party also has the right to seek an injunction and other legal and equitable rights and remedies available under the law.

- b. **Cure.** As an alternative to the preceding paragraph, Covered Entity may choose to provide Business Associate with five (5) business days' written notice of the existence of an alleged material breach, and afford Business Associate the opportunity to cure such alleged material breach. Business Associate must cure such breach to the satisfaction of Covered Entity or Covered Entity may declare a material breach in accordance with section 4(a) above. If termination of this Addendum is not feasible, Covered Entity shall report the problem to the Secretary of the U.S. Health and Human Services.
- c. **Effect of Termination.** Upon termination or expiration of this Addendum for any reason, Business Associate shall return and/or destroy all PHI and/or ePHI received or created pursuant to this Addendum that Business Associate maintains in any form, and shall retain no copies of such PHI and/or ePHI, or if return or destruction is not feasible, Business Associate shall continue to extend protections of this Addendum to such information, and limit further use of such PHI and/or ePHI to those purposes that make the return or destruction infeasible, for so long as Business Associate maintains such PHI and/or ePHI.

VI. DISCLAIMER

Covered Entity makes no warranty or representation that compliance by Business Associate with this Addendum, HIPAA, the HITECH Act, or the Privacy and Security Rules will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and/or ePHI.

VII. NO THIRD PARTY BENEFICIARIES

Nothing express or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than Covered Entity, Business Associate and their respective successors and assigns, any rights, remedies, obligations or liabilities whatsoever.

VIII. CHANGE IN APPLICABLE LAWS OR REGULATIONS

In the event the laws or regulations of the United States or the State in which the majority of services are rendered are modified or amended in any material way with

respect to this Addendum, this Addendum shall not be terminated but rather, to the extent feasible, shall be promptly amended by the parties to operate in compliance with the existing law. The parties acknowledge that their responsibilities under this Addendum may be affected and governed by the requirements of HIPAA and/or the HITECH Act, to the extent that regulations implementing HIPAA and/or the HITECH Act (the "Regulations") become effective during the Term of this Addendum or any renewal thereof. Both parties agree that, upon the effective date of any such Regulations, this Addendum shall be deemed to incorporate, and impose on the parties, any obligations applicable to each of them under such Regulations pursuant to their responsibilities hereunder. To the extent any amendments to this Addendum shall be necessary to effectuate or clarify the obligations of the parties pursuant to such Regulations, the parties hereby agree to negotiate such amendments in good faith, subject to the right of either party to terminate this Addendum in accordance with its terms.

IX. SURVIVAL

The respective rights and obligations of Business Associate under Section 2 of this Addendum shall survive the termination of this Addendum.

X. INTERPRETATION

Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Covered Entity to comply with the Privacy and Security Rules and/or the HITECH Act.

XI. ENTIRE ADDENDUM

This Addendum constitutes the entire agreement between the Parties and supersedes all prior oral and written agreements or understandings between them with respect to the matters provided for herein. All notices and other communications under this Addendum shall be in writing.

EXHIBIT C
MIPPA ADDENDUM

I. DEFINITIONS

- a. *“Nominal Gifts”* shall have the meaning given to such term at 42 C.F.R. § 422.2268 and 423.2268(d). For the purposes of this Addendum, Nominal Gifts shall mean gifts with retail value of \$15 or less which are not readily convertible to cash.
- b. *“Unsolicited Contacts”* shall have the meaning given to such term at 42 C.F.R. § 422.2268(d) and 423.2268(d). For the purposes of this Addendum, Unsolicited Contacts shall mean contact or phone calls to former members or prospective members who have not provided explicit consent for such contact or phone call.
- c. *“MIPPA”* or *“Medicare Improvement for Patients and Providers Act of 2008”* is the statute under which the CMS MIPPA regulations were promulgated.
- d. *“Cross-Selling”* shall have the meaning given to such term at 42 C.F.R. § 422.2268(f) and 423.2268(f), and shall prohibit the marketing or selling of non-healthcare related products, such as annuities and life insurance, to prospective enrollees during any Medicare Advantage or Part D sales activity or presentation.
- e. *“Scope of Appointment”* shall have the meaning given to such term at 42 C.F.R. § 423.2268(g) and (h), and shall require sales/marketing representatives to clearly identify the types of products that will be discussed at an appointment or presentation prior to marketing to a potential enrollee.
- f. *“Health Care Setting”* shall have the meaning given to such terms at 42 C.F.R. § 422.2268(k) and 423.2268(k) and shall mean hospitals, nursing homes, pharmacies, physician offices or other location in which health care or pharmacy services are rendered to patients such as exam rooms, patient rooms, dialysis centers and pharmacy counters, and/or the waiting room/areas of such locations.
- g. *“Educational Events”* shall have the meaning given to such term at 42 C.F.R. § 422.2268(l) and 423.2268(l), and is an event that provides educational information about the Medicare program and/or health improvement or wellness.
- h. *“Light Snacks”* shall have the meaning given to such term at 42 C.F.R. § 422.2268(p) and 423.2268(p), and while CMS does not intend to define the

term “meal” or create a comprehensive list that qualifies as light snacks, the following could be considered generally acceptable: fruit; raw vegetables; pastries; cookies; crackers; muffins; cheese; chips; yogurt; nuts, etc.

- i. **“Agency/Agent Compensation”** shall have the meaning given to such term at 42 C.F.R. §422.2274(a) and 423.2274(a), and includes pecuniary remuneration of any kind relating to the sale or renewal of the policy, for example, commissions, bonuses, gifts, prizes, and finders’ fees.
- j. **“Agency/Agent Training”** shall have the meaning given to such term at 42 C.F.R. § 422.227(b) and 423.2274(b), and includes training on Medicare rules and regulations and on plan details specific to the plan products being sold by Agents and Agencies.

II. OBLIGATIONS OF AGENT

- a. **Nominal Gifts.** Agent agrees that they will not offer gifts to potential enrollees that exceed the current CMS definition of nominal gift, currently defined as having a retail value of less than \$15.00 and may not be readily convertible into cash.
- b. **Marketing through Unsolicited Contacts.** Agent agrees that they will observe the CMS prohibition of door-to-door solicitation and will not engage in any unsolicited contact of prospective enrollees, except as allowed under the MIPPA regulations. Prohibited activities include, but are not limited to, outbound marketing calls; calls to former members who have disenrolled; calls to beneficiaries to confirm receipt of mailed information; calls to confirm acceptance of appointments made by third parties; approaching beneficiaries in common areas; or calls or visits to beneficiaries who attended a sales event and did not request a follow up contact.
- c. **Scope of Appointment.** Agent agrees to utilize the SCAN or SCAN approved “Sales Appointment Confirmation Form” also referred to as “Scope of Appointment Form” or document the prospective enrollee’s consent by recording the scope of appointment discussion, prior to initiating any face-to-face appointment with a prospective enrollee. Sales Appointment Confirmation Forms and/or recordings of prospective enrollee’s consent to the scope of appointment must be retained by Agent for a period of ten (10) years, or as otherwise required by MIPPA regulations and in accordance with SCAN policies and procedures.
 - i) Agencies and Agents must inform the beneficiary of all products that will be discussed prior to the in-home appointment. Enrollee must provide, and Agency/Agent must document, the enrollee’s consent.

- d. **Cross-Selling.** Agent agrees not to solicit, present or sell any non-healthcare related products such as annuities or life insurance to prospective enrollees during any Medicare Advantage or Part D sales activity or presentation, as this is considered Cross-Selling by CMS and is strictly prohibited under the MIPPA regulations.
- e. **Sales/Marketing in Health Care Settings.** Agent agrees not to conduct sales activities to prospective enrollees in any Health Care Setting, except in common areas, as this is strictly prohibited under the MIPPA regulations. Common areas where marketing activities are allowed include areas such as hospital/facility cafeterias, community or recreational rooms and/or conference rooms.
- f. **Sales/Marketing at Educational Events.** Agent agrees not to conduct sales activities to prospective enrollees at any events that are promoted as being Educational Events. An event is deemed to be an Educational Event if it is intended to provide general and objective information about the Medicare Program, Medicare Advantage or Part D programs, or general health and wellness topics. Prohibited activities include the distribution of marketing materials or business reply cards, or the distribution or collection of plan applications
- g. **Prohibition on the Provision of Meals.** Agent agrees not to provide meals to prospective enrollees prior to, during or after a presentation to prospective enrollee. Light Snacks as defined herein are allowed to be provided at sales presentations, events or meetings.
- h. **Appointment and Termination of Agents.** Agency agrees to only use state-licensed, certified or registered individuals as Agents. Both independent Agents and internal/employed/captive Agents that perform sales/marketing activities must be licensed and appointed with SCAN.
 - i) SCAN is required to report the termination of any Agent and the reason for the termination to the State in which the Agent is appointed. Therefore, Agency agrees to notify SCAN of any terminations of Agents who are subordinate to Agency or Subordinate Agency, including reason for such termination.
- i. **Agent/Agency Training.** Agent agrees to meet the requirements of the Medicare Advantage Agent Addendum, including successfully completing the SCAN approved Agent/Agency certification training and passing the initial certification and annual recertification exams administered by SCAN or its designee, with a score of 85% or greater.

III. CHANGE IN APPLICABLE LAWS OR REGULATIONS

In the event the laws or regulations of the United States or the State applicable to the subject matter of the Addendum are modified or amended in any material way with respect to the Addendum, this Addendum shall not be terminated but rather, to the extent feasible, shall be promptly unilaterally amended by the parties to operate in compliance with the existing law. The parties acknowledge that their responsibilities under this Addendum may be affected and governed by the requirements of MIPPA, to the extent that regulations implementing MIPPA (the "Regulations") become effective during the Term of this Agreement or any renewal thereof. Both parties agree that, upon the effective date of any such Regulations, the Agreement and Addendum shall be deemed to incorporate, and impose on the parties, any obligations applicable to each of them under such Regulations pursuant to their responsibilities hereunder. To the extent any amendments to the Agreement or Addendum shall be necessary to effectuate or clarify the obligations of the parties pursuant to such Regulations, the parties hereby agree to negotiate such amendments in good faith, subject to the right of either party to terminate the Agreement or Addendum in accordance with its terms.

IV. SURVIVAL

The respective rights and obligations of Agent under Section 2 of this Addendum shall survive the termination of this Agreement.



Assignment of Commissions

("Assignor" Sales Representative)
("Assignee" Agency)

To SOUTH BAY HEALTH AND INSURANCE SERVICES Tax ID 26-0485597
(Legal entity that commissions are being assigned to, hereinafter the "Assignee")

Assignee's Address 626 L STREET SUITE 2

City CHULA VISTA State CA Zip Code 91911

Telephone (619) 934-7227 Email PSALAS@SBHIS.NET

For valuable consideration, the undersigned, herein called the Assignor, hereby assigns to the Assignee all of the Assignor's right, title, interest, claim or demand in and to any compensation referenced herein now due and payable, or which may become due and payable, under existing contracts and agreements heretofore entered into by and between SCAN Health Plan (the "Company") and Assignor.

Assignor hereby authorizes and empowers the Company to pay Assignee directly as described in the table below under "Amount Paid Through to Assignee (Agency)". The Assignor acknowledges that said compensation payment will be made directly from the Company to the Assignee and said compensation will not be included in any commission payment, if applicable, to the Assignor. This will pertain to all compensation (including but not limited to over-riding commissions) now due or which may become due under the Agreement until such time as Assignor terminates this assignment by written notice to the Company. Assignor acknowledges and agrees that such payment of compensation to Assignee shall constitute payment of such compensation to the Assignor as if paid directly to the Assignor and the Company shall be fully released from any and all responsibility to the Assignor for such payments.

The above-referenced compensation payment is based on current CMS guidelines wherein Assignee is entitled to receive the "Standard Rates" detailed in the table below, per enrollment. However, Assignee must agree that for those Agency Administrative Services such as marketing, event scheduling, managing and processing enrollments, customer service responses and training, Assignor will agree to be paid as outlined below per enrollment.

CMS Rate Designation	CA Standard Rates		Assignor's (Agent's) Designated Rates		Amount Paid through to Assignee (Agency)
Yr 1 (Initial)	\$503	=	\$ _____	+	\$ _____
Yr 2-6	\$252		\$ _____		\$ _____
Renewal	\$21.00/mo		\$ _____		\$ _____

Compensation for enrollments will be calculated in accordance with the commission schedule in effect at the time of enrollment or as validated by CMS in accordance with compensation policy changes or requirements. As CMS issues changes to the maximum rate levels and until such time as the Company receives a revised Assignment of Commissions form, the Company will continue to pay the Assignor (Agent) at the rates indicated above, and the Assignee (Agency) pay through will be adjusted according to the new CMS requirements.

Assignor hereby covenants and agrees that Assignor is the absolute and sole owner of said compensation, free from assignment or encumbrance of any kind or character whatsoever, and has full right and lawful authority to so assign same. The Assignor shall at all times defend, indemnify and hold harmless the Company and its officers, agents, and employees from and against any and all suits, actions, losses, damages, claims, expenses (including but not limited to the Company's legal expenses) and liability of any character, type or description arising out of the execution or performance of this agreement.

Assignor Signature _____ Dated _____

Assignor Name _____
(Print)

Assignee Signature _____ Dated _____

The Company acknowledges receipt of, and consents to the foregoing assignment, but assumes no responsibility for the validity or sufficiency hereof. This assignment is effective on the date signed by an authorized representative of the company.

By _____ Dated _____
(Authorized Company Signature)

Company Representative Name **PAT SALAS** _____
(Print)

Title **PRESIDENT** _____
(Print)