

PRODUCER AGREEMENT

This Producer Agreement ("Agreement") between Liberty Dental Plan Of Nevada, Inc. ("Liberty Dental") and

_____ ("Producer") sets forth the terms and conditions under which Producer may sell dental coverage by Liberty Dental. This Agreement is effective as of the date it is signed by both parties, as set forth on the signature page hereto ("Effective Date"), and replaces and supersedes any prior agreement between the parties regarding the solicitation and sale of Liberty Dental's Dental Plans.

1. Definitions

- 1.1 Producer** means the person or entity licensed or appointed by Liberty Dental to solicit a Contracting party to purchase a Dental Plan and who is a party to this Agreement.
- 1.2 Producer of Record** means a legally eligible person or entity designated by a Contracting Party to serve as its insurance agent, broker or producer and that Liberty Dental may compensate under the terms of this Agreement.
- 1.3 Dental Plan** means a dental coverage product that Liberty Dental has authorized to be sold to a Contracting Party.
- 1.4 Contracting Party** means an entity with which Liberty Dental has a contract to provide individual or group coverage under a Dental Plan.
- 1.5 Governmental Entity** shall include, but be not limited to cities, counties, municipalities, states, political subdivisions, public school districts and similar tax supported entities.

2. Producer's Rights and Responsibilities

- 2.1 Solicitations.** Liberty Dental authorizes Producer to sell Liberty Dental's Dental Plans under the terms of this Agreement. Producer agrees to solicit prospective Contracting Parties to enroll in one or more Dental Plans from Liberty Dental. In making these solicitations, Producer will comply with the following terms and conditions:
 - (a) Proposals.** Any proposal Producer provides to a prospective Contracting Party must accurately reflect Liberty Dental's terms of coverage, including but not limited to benefits and premiums, and must not be misleading.
 - (b) No alteration of terms without Liberty Dental's approval.** Producer may not alter any term of a proposal except with Liberty Dental's prior written approval.
 - (c) Application information.** Producer must accurately and completely record and submit to Liberty Dental all information that Liberty Dental requires to enroll Contracting Parties under a Dental Plan.
 - (d) Marketing materials.** If Producer uses any material not provided or approved by Liberty Dental, the material must be accurate and not misleading. Producer must promptly return all marketing and enrollment materials provided by Liberty Dental to Liberty Dental when this Agreement terminates, or sooner upon Liberty Dental's request. Any marketing materials proposed for use by Producer must be approved by Liberty Dental prior to Producer's use of such marketing materials.
- 2.2 Licensing.** Producer must possess and maintain every license required by law to perform services under this Agreement, including in every state in which Producer conducts business under this Agreement. Producer must provide proof of licensure to Liberty Dental upon Liberty Dental's request. Producer must immediately notify Liberty Dental of any expiration, termination, revocation, suspension or any other action by the Division or Department of Insurance or any other governmental agency affecting licenses required to perform services under this Agreement. In states that issue renewal licenses, Producer must furnish Liberty Dental with a copy of Producer's renewal license.
- 2.3 Appointment.** Liberty Dental, in its sole discretion, will appoint Producer to solicit prospective Contracting Parties to purchase Dental Plans from Liberty Dental. Subject to applicable law, Liberty Dental may terminate any of Producer's appointments at any time without terminating this Agreement in its entirety.
- 2.4 Training.** Liberty Dental will furnish Producer with materials and training that, in Liberty Dental's sole judgment, are necessary for Producer to perform Producer's duties under this Agreement, but the furnishing of any such training or materials shall not be

deemed to constitute a representation or warranty that Producer will be successful in performing its duties hereunder or be deemed to limit Liberty Dental's rights to terminate this Agreement as hereinafter provided. Producer must successfully complete any training Liberty Dental requires within four (4) months after being notified by Liberty Dental that such training is required.

2.5 Enrollment. Producer acknowledges that only Liberty Dental, and not Producer or any other person, may accept or reject for enrollment a prospective Contracting Party. Producer further acknowledges that no Contracting Party is eligible to receive coverage under a Dental Plan unless and until Liberty Dental accepts and enrolls the Contracting Party and that only Liberty Dental, and not Producer or any other person, has the right to determine the effective date of coverage.

2.6 Servicing of Contracting Parties. Producer must assist Contracting Parties in enrolling, maintaining, and renewing coverage under any applicable Dental Plan as reasonably required by Liberty Dental and/or the Contracting Party.

2.7 Bonuses. Any bonuses or other rewards are paid solely at the discretion of Liberty Dental. Producer agrees that it will not create partnerships, arrange assignments, or use other devices as a means of combining business for the purpose of maximizing any bonus payment or other reward from Liberty Dental. This provision does not entitle Producer to receive any bonus payment(s) or reward(s) from Liberty Dental if Producer is not otherwise eligible to receive any such bonus payment(s) or reward(s).

2.8 Limitations on Producer's Authority. Producer has no authority to act on Liberty Dental's behalf except as expressly provided in this Agreement. Without limiting the forgoing, Producer must not represent orally or in writing that Producer has authority to (i) bind coverage; (ii) accept an applicant for coverage under a Dental Plan; (iii) misrepresent or omit material facts in an application; (iv) collect any premium, except for the first month's premium; (v) modify or waive any Dental Plan or any Dental Plan's term regarding enrollment, coverage, or benefits; (vi) distribute any advertisement, circular, or promotional literature that is inaccurate, misleading, or that Liberty Dental has disapproved; (vii) sell any Dental Plan or other product not expressly authorized by this Agreement; or (viii) do any other thing on behalf of Liberty Dental, not expressly permitted by this Agreement.

2.9 Books and Records; Audit.

(a) Maintenance of records. Producer must maintain adequate books and records in accordance with applicable law and standards within the health care insurance industry.

(b) Audit Rights. Producer agrees to permit Liberty Dental to inspect and audit all information and records related to services Producer performs for Liberty Dental under this Agreement. Liberty Dental must give Producer reasonable notice and conduct the inspection and audit during regular business hours.

2.10 Protection of Private Information. Producer understands and acknowledges that, while performing services under this Agreement, Producer may receive from Liberty Dental, or create or receive on behalf of Liberty Dental, certain information that is defined as "Protected health Information" ("PHI") under the privacy regulations issued under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") or "nonpublic personal information" under the Gramm-Leach-Bliley Act and implementing regulations ("GLB"), or both.

To the extent Producer provides services or assistance to Liberty Dental and requires access to PHI in order to perform such services or act on behalf of Liberty Dental, Producer shall be considered a Business Associate of Liberty Dental and Producer shall agree to the terms of subsections (a) through (i) of Section 2.10 of this Agreement regarding Producer's use and disclosure of this information. To the extent Producer is not acting on behalf or at the direction of Liberty Dental, Producer shall not be considered a Business Associate of Liberty Dental.

Regardless of whether Producer is considered a Business Associate of Liberty Dental, Producer agrees that it will use or disclose PHI it receives from, or is created or received on behalf of Liberty Dental and nonpublic personal information ("Personal Information") received from or created or received on behalf of Liberty Dental only to the extent to which HIPAA, GLB or other federal or state privacy laws applicable to Liberty Dental would permit Liberty Dental to use or disclose the information.

Producer acknowledges that being considered a Business Associate of Liberty Dental does not automatically entitle Producer to access certain PHI and Personal Information and that Liberty Dental may deny Producer access to PHI and Personal Information or condition such access on Producer meeting certain requirements, at Liberty Dental's discretion.

(a) With regard to its use or disclosure of PHI or Personal Information, Producer agrees, represents and warrants to Liberty Dental that Producer will:

- (i)** not use or further disclose any PHI or Personal Information, except as permitted by this Agreement or as Required By Law;
- (ii)** maintain and use appropriate safeguards at all times to prevent PHI or Personal Information from being used or disclosed, except as permitted by this Agreement or Required By Law; and

(iii) ensure that any subcontractor or agent to whom Producer provides any PHI or Personal Information agrees, in writing, to abide by the same conditions and restrictions with regard to the PHI or Personal Information that apply to Producer, including, without limitation, all of the requirements of this Section 2.10, subsections (a) through (i).

(b) With regard to its use or disclosure of PHI, Producer hereby agrees, represents and warrants to Liberty Dental that Producer will, in the time and manner designated by Liberty Dental:

(i) report promptly to Liberty Dental if Producer becomes aware of any use or disclosure of any PHI that is not permitted by this Agreement;

(ii) mitigate, to the extent practicable, any harmful effect caused by Producer's violation of the terms of this Agreement;

(iii) make available to Liberty Dental (or to an individual, if directed to do so by Liberty Dental) PHI in a Designated Record Set, so that Liberty Dental may respond to an Individual's Request For Access to information about the Individual in accord with the HIPAA privacy regulations;

(iv) amend or correct PHI in a Designated Record Set in accord with the HIPAA privacy regulations;

(v) document disclosures of PHI and information related to disclosures by Producer that will permit Liberty Dental to respond to a request from an Individual for an Accounting of Disclosures of PHI in accord with the HIPAA privacy regulations;

(vi) make available to Liberty Dental (or to an individual, if directed to do so by Liberty Dental) the information documented under subsection (b)(v) above, that would permit Liberty Dental to respond to a request from an Individual for an Accounting of Disclosures, in accordance with the HIPAA privacy regulations; and

(vii) make its internal practices, books and records relating to the use and disclosure of PHI available to Liberty Dental and the Secretary of Health and Human Services ("the Secretary") for purposes of determining Liberty Dental's compliance with the HIPAA privacy regulations. Information provided under this subsection must be provided in the time and manner designated by the Secretary, as well as in the time and manner designated by Liberty Dental.

(c) With regard to its use and/or disclosure of electronic protected health information ("EPHI"), as such term is defined by the Security Standards published on February 20, 2003, at 68 Fed. Reg 8334 *et seq.* (45 C.F.R. Parts 160, 162 and 164) as hereafter amended ("HIPAA Security Rule"), Producer shall:

(i) Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that Producer creates, receives, maintains or transmits on behalf of Liberty Dental;

(ii) Ensure that any and all of subcontractors or agents to whom Producer provides EPHI agree, in writing, to implement reasonable and appropriate safeguards to protect such EPHI; and

(iii) Immediately report to Liberty Dental any Security Incident (as defined in 45 CFR Section 164.304) relating to EPHI of which Producer becomes aware.

(d) From and after the compliance date applicable to Liberty Dental with respect to the Standards for Electronic Transactions and Code Sets promulgated at 45 CFR Parts 160 and 162 (EDI Rules), Producer will take all steps necessary and appropriate to ensure that Producer complies with the applicable provisions of the EDI Rules.

(e) Each term and condition of this Section 2.10 that is required by HIPAA or GLB is effective on the date the applicable HIPAA regulations and/or GLB apply to Liberty Dental or this Agreement, respectively.

(f) When this Agreement terminates, regardless of the reason, Producer must return to Liberty Dental or destroy all PHI and Personal Information, and retain no copies in any form whatsoever. This provision applies to PHI and/or Personal Information that is in the possession of subcontractors, vendors or agents of Producer.

(g) Unless otherwise specified in this Agreement, all capitalized terms in this Agreement not otherwise defined have the meaning established by HIPAA, as amended from time to time.

(h) Liberty Dental and Producer agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Liberty Dental to comply with the requirements of HIPAA, the HIPAA privacy regulations, HIPAA Security Rules, GLB and other federal and state privacy and consumer rights laws and regulations applicable to Liberty Dental. Producer agrees to cooperate with and assist Liberty Dental in order for Liberty Dental to meet its obligations under applicable privacy laws and regulations.

(i) This Section 2.10 survives termination of this Agreement.

(j) The terms and conditions of this Section 2.10 required by HIPAA shall be construed in light of any applicable interpretation of or guidance on the HIPAA privacy regulations or Security Rule issued by the Secretary from time to time. Any ambiguity in this Section 2.10 shall be resolved in favor of a meaning that permits Liberty Dental to comply with applicable laws and regulations.

2.11 Insurance. Producer must maintain general liability, professional liability, and errors and omissions insurance or bonds in amounts and in forms standard and adequate for Producer's business and agreeable to Liberty Dental. Producer must provide Liberty Dental proof of insurance upon Liberty Dental's request. Producer must immediately notify Liberty Dental in writing if Producer's insurance terminates, is cancelled, suspended, or changes in a material way, including, but not limited to, a change in the amount of insurance.

2.12 Indemnification. Liberty Dental and Producer will indemnify, hold harmless and defend the other from and against any and all claims, litigations, losses, liabilities, costs and other expenses incurred as a result of a material breach of the terms of this Agreement. Producer will indemnify and hold harmless Liberty Dental (including its directors, officers, attorneys, and employees) from any claims, liability, judgments, damages or costs (including reasonable attorneys' fees) asserted or awarded against or incurred by Liberty Dental as a result of any act, error, or omission of Producer.

2.13 Federal Crime Control Act. By signing this Agreement, Producer certifies that Producer has not been convicted of, or pled guilty or no contest, to any criminal felony involving dishonesty or breach of trust and has not been convicted of an offense under Section 1033 of the Violent Crime Control and Law Enforcement Act of 1994. Producer further agrees to notify Liberty Dental, in writing, immediately upon receiving notice of any misdemeanor or felony charges or any actions, including, but not limited to, convictions by any governmental authority for commission of any act involving fraud, dishonesty, breach of trust, theft, misappropriation of money, or breach of any fiduciary duty.

2.14 Compliance with Liberty Dental Rules. Producer will abide by all applicable Liberty Dental policies and procedures and written notices provided to Producer.

3. Compensation

3.1 Compensation. Liberty Dental will compensate Producer for Producer's services during the term of this Agreement in accordance with the terms and conditions set forth in any applicable commission, bonus or other compensation schedule or information (as determined solely by Liberty Dental) that may be made available by Liberty Dental from time to time. Notwithstanding anything to the contrary contained in this Agreement or any such compensation schedule or information, Liberty Dental will not compensate Producer under the terms of this Agreement, except with respect to all Contracting Parties (regardless of the effective date of coverage by Liberty Dental) for which (a) Producer is the Producer of Record, (b) Producer continues to service the Contracting Parties (regardless of whether the writing agent is affiliated with Producer), and (c) Liberty Dental determines, in its sole discretion, that it may legally compensate Producer. Notwithstanding anything to the contrary in this Agreement, no compensation will be paid on any Contracting Party where the Producer is not receiving base commissions. In addition, Liberty Dental will not pay, nor shall Producer accept, any compensation on any Contracting Party where the Producer receives compensation directly from the Contracting Party or is otherwise acting as a consultant for Contracting Party, unless Liberty Dental first receives a written consent, in a form acceptable to Liberty Dental, from the Contracting Party authorizing Liberty Dental to compensate the Producer on such Contracting Party; provided, however, in no instance will Liberty Dental pay, or shall Producer accept, any compensation on any Contracting Party that is a Governmental Entity, where the Producer receives compensation directly from the Governmental Entity or is otherwise acting as a consultant of the Governmental Entity.

3.2 Payment. Liberty Dental will compensate Producer monthly; provided, however, that Liberty Dental will only compensate Producer with respect to any particular Contracting Party within 60 days after Liberty Dental receives payment of that Contracting Party's monthly contract charges.

3.3 Commissions on Hold. Liberty Dental may, at its discretion, place compensation of Producer on hold, if based on Producer's information on file with Liberty Dental, Producer no longer complies with the terms of this Agreement. Producer agrees to forfeit any compensation placed on hold, if the cause of such hold has not been resolved within six (6) months of the hold's effective date, as indicated on a hold notification letter or commissions statement.

3.4 Modification or Termination of Compensation. Liberty Dental may terminate or amend any commission payable to Producer with respect to any Contracting Party (regardless of the original effective date of coverage by Liberty Dental) at any time by notifying Producer (in a manner consistent with the terms of this Agreement) 30 or more days before the effective date of the termination or amendment.

Liberty Dental has the right to exclude any case from eligibility for any and all bonus programs if it determines, at its sole discretion, that including the case in the bonus program would create an actual or perceived conflict of interest for an agent and a customer. Liberty Dental has the right to exclude any case from eligibility for any bonus program for any reason.

Liberty Dental may terminate or amend any override, bonus or other recognition or reward program applicable to Producer at any time for any reason without prior notice to Producer.

3.5 Disclosures. All compensation payable to Producer under this Agreement is subject to disclosure or reporting by Liberty Dental to any government or regulatory agency or to any third party, including any customer or prospective customer of Liberty Dental. Liberty Dental will determine, in its sole discretion, the party or parties to which it will disclose any such compensation, the frequency with which it will make any such disclosures, and the amount and type of compensation required to be disclosed. Producer agrees to disclose any compensation that Producer receives under this Agreement as required by applicable law. In

addition, Producer shall notify Liberty Dental, as outlined in the Notice provision of this Agreement, if Producer receives any compensation directly from an actual or prospective Contracting Party that is a Governmental Entity. Such notice shall include the name of such Contracting Party, a description of the services provided to such Contracting Party, and the amount of compensation received.

3.6 Adjustments.

- (a) Each party agrees to promptly notify the other upon becoming aware of an incorrect payment amount. Subject to subsections (b) and (c) below, Producer agrees to promptly remit to Liberty Dental any amounts overpaid pursuant to this Agreement.
- (b) Liberty Dental may correct an overpayment error by notifying Producer of the error and asking for repayment. At its sole discretion, Liberty Dental may instead recover overpayments from Producer by offsetting the overpayment against future compensation and notifying Producer of the offset and the reason for it.
- (c) Liberty Dental will not adjust any incorrect payments to Producer except for payments made within two years prior to the date of adjustment. In this regard, neither Producer nor Liberty Dental may assert a claim against the other relating to an incorrect payment amount under the terms of this Agreement unless such claim is made (and the resulting adjustment is commenced) within two years of said incorrect payment.
- (d) If Liberty Dental incurs any cost in collecting reimbursement of an overpayment from Producer, including, but not limited to, collection agency and attorney fees, but not including the costs of offsetting future payments, Producer will pay Liberty Dental's costs, as applicable.
- (e) Notwithstanding anything in this Agreement or any compensation schedule to the contrary, Liberty Dental will not pay any amount to Producer that exceeds a maximum prescribed by any applicable law.

3.7 No Compensation to Other Producers. Liberty Dental will not pay compensation to any other agent, broker or producer under the terms of this Agreement. Producer agrees to defend, indemnify and hold harmless Liberty Dental if an agent, broker or producer (other than Producer) makes a claim for compensation against Liberty Dental under the terms of this Agreement.

3.8 Taxes.

- (a) **Producer solely responsible for taxes.** Producer acknowledges that Producer is not Liberty Dental's employee and that Producer is solely responsible for reporting and paying any tax or other cost assessed on the basis of Liberty Dental's payment of compensation to Producer under this Agreement.
- (b) **No withholding by Liberty Dental.** Producer acknowledges and agrees that Liberty Dental will not withhold any amount of compensation for Producer's taxes, including but not limited to, income tax, social security and Medicare tax, workers compensation taxes or costs; unemployment compensation taxes or costs; or any other tax, cost, fee or charge related to Producer's compensation for services under this Agreement.

4. Producer of Record

4.1 Designation of Producer of Record. Liberty Dental will consider Producer to be Producer of Record for every Contracting Party sold by Producer under the terms of this Agreement unless and until a Contracting Party asks Liberty Dental to change its Producer of Record to a different producer.

4.2 Change in Producer of Record. Notwithstanding the forgoing, Liberty Dental may, in good faith, change a Contracting Party's Producer of Record at any time for any reason in accordance with applicable law and the following provisions are not intended to limit this right in any way.

- (a) **Written request from Contracting Party.** In its sole discretion, Liberty Dental will recognize a request to change a Producer of Record only if it is in writing and is from the Contracting Party, and not from Producer or any other person. If a Contracting Party asks Liberty Dental to change its Producer of Record, Liberty Dental will determine the effective date of the change in its sole discretion.
- (b) **Termination Events.** Upon occurrence of at least one of the termination events described in Sections 5.3 through 5.8 of this Agreement, Liberty Dental will no longer recognize Producer as a Contracting Party's Producer of Record.

5. Term and Termination

5.1 Term. This Agreement is effective from the Effective Date until terminated in accordance with Section 5.

5.2 Termination for Any Reason. Liberty Dental or Producer may terminate this Agreement at any time, for any reason in their respective sole discretion, by providing written notice of termination to the other party 60 or more days before the effective date of termination.

5.3 Termination for No License. If, at any time during the term of this Agreement, Producer does not have, or fails to maintain, a license required to perform services or receive compensation under this Agreement (including if Producer's license is revoked by

a licensing or regulatory agency but not including a temporary suspension of Producer's license), it shall be considered a material breach of this Agreement by Producer and this Agreement shall be terminated effective as of the date that Producer first lost, or failed to maintain, the license without regard to when Liberty Dental learns of the loss of, or failure to maintain, the license or when Liberty Dental notifies Producer that this Agreement has been terminated. Liberty Dental may recover compensation paid to Producer after Producer loses or fails to maintain any such license.

- 5.4 Automatic Termination Upon Certain Events.** This Agreement shall terminate automatically upon Producer's death, dissolution, receivership, insolvency, or bankruptcy.
- 5.5 Termination for Producer's Breach.** If Producer breaches a material term of this Agreement (including, but not limited to, Sections 2.1(d) (marketing materials), 2.2 (licenses), 2.8 (authority), 2.10 (privacy), 2.11 (insurance)), Liberty Dental may terminate this Agreement immediately by notifying Producer in writing of the effective date of termination. The effective date of termination pursuant to this Section 5.5 may be the date of the breach, or any later date that Liberty Dental specifies in the notice of termination.
- 5.6 Termination for Disciplinary Action.** Producer must immediately notify Liberty Dental if it receives notice from any licensing or regulatory agency alleging a violation of law which could result in any disciplinary action of the Producer by the licensing or regulatory agency. If a licensing or regulatory agency subjects Producer to any disciplinary sanction (for example, a fine, probation, reprimand or temporary suspension of Producer's license), Liberty Dental may terminate the Agreement by providing written notice to Producer effective upon receipt of the notice, or any date that Liberty Dental specifies in the notice. No compensation will be payable to Producer for services rendered during any period in which Producer's license is temporarily suspended. Liberty Dental may recover any compensation paid to Producer during any period in which Producer's license is temporarily suspended.
- 5.7 Termination for Fraud.** If Producer engages in, or knowingly assists another to commit, fraudulent or dishonest activity in connection with the solicitation, enrollment, or renewal of any Contracting Party, this Agreement shall terminate effective as of the date on which Producer engaged in or assisted with such activity without regard to when Liberty Dental learns of the fraudulent or dishonest activity or when Liberty Dental notifies Producer that this Agreement has been terminated. Liberty Dental may recover any compensation paid to Producer after Producer engaged in, or knowingly assisted another to commit, the fraudulent or dishonest act without regard to when Producer actually earned such compensation.
- 5.8 Termination based on Acquisition or Merger.** Liberty Dental may terminate this Agreement in the event that (i) Producer merges with, or is acquired by, a competitor of Liberty Dental; or (ii) a competitor of Liberty Dental acquires substantially all of the assets of Producer.
- (a) Competitor defined.** A competitor of Liberty Dental for purposes of this provision includes any entity (including any such entity's affiliates) that, in the ordinary course of its business, is in direct or indirect competition with Liberty Dental.
- (b) Notice.** Producer must provide at least 60 days prior notice to Liberty Dental of the closing date of any transaction described in this Section. Upon request, and subject to any applicable confidentiality restrictions or obligations, Producer must provide Liberty Dental any and all information about the transaction that Liberty Dental reasonably requests.
- (c) Procedure.** Upon receipt of such notice from Producer, Liberty Dental may terminate this Agreement, in whole or in part, immediately by providing written notice to Producer. If the Agreement is not terminated in its entirety, Liberty Dental must specify in its termination notice the portions hereof that shall be terminated in accordance with this section.
- 5.9 Effect of Termination.**
- (a) No solicitation permitted.** Producer may not solicit or sell Dental Plans to Contracting Parties after this Agreement has been terminated.
- (b) Compensation.** If this Agreement is terminated pursuant to Section 5.2 above, Liberty Dental will continue to pay Producer compensation for Contracting Parties previously enrolled by Producer as long as the Contracting Party has an in-force Dental Plan with Liberty Dental, Producer is the Contracting Party's Producer of Record and continues to service the Contracting Party, and Producer is legally eligible to receive compensation in Liberty Dental's sole discretion.
- (c) Material Breach.** Upon termination of this Agreement pursuant to Section 5.3 (loss of license), 5.4 (Producer's death or dissolution), 5.5 (material breach), 5.6 (disciplinary action), or 5.7 (fraudulent activity), Producer will no longer be entitled to compensation under this Agreement and Liberty Dental shall cease paying such compensation to Producer or any other person under the terms of this Agreement.
- 5.10 Termination of Appointment or Authority to Sell.** Liberty Dental may terminate Producer's appointment(s) or authority to sell Liberty Dental products at any time for any reason without terminating this Agreement in its entirety. Liberty Dental may, in its sole discretion, continue to pay Producer compensation under the terms of this Agreement if Producer is legally eligible to receive compensation.

5.11 Survival. The following provisions shall survive termination of this Agreement: Sections 2.7; 2.9(b); 2.11; 2.12; 3 and 4 (in their entirety); 5.3, 5.6 and 5.7 (regarding the recovery of compensation paid to Producer); 5.9; 6.1; and 7 (in its entirety).

6. Dispute Resolution

6.1 Good Faith Attempt to Resolve Disputes Required. Liberty Dental and Producer agree to work together in good faith to resolve any disputes arising under this Agreement. If after at least ninety (90) days following the date one party sent written notice of the dispute to the other party the dispute is not resolved, any party may pursue resolution of the dispute by other means.

7. Miscellaneous

7.1 Agreement is Confidential. Producer agrees not to disclose this Agreement, or any term of it, to any third party without the prior written consent of Liberty Dental, except as required by law. This section does not prohibit Producer from disclosing the compensation that Producer receives from Liberty Dental to actual or prospective Contracting Parties.

7.2 Relationship of the Parties. Producer is an independent contractor and is not Liberty Dental's employee. This Agreement does not create any other relationship between the parties, including joint venture or agency.

7.3 Compliance with Law. The parties agree to comply with applicable laws and regulations while performing their obligations under this Agreement, regardless of whether such laws or regulations are specifically referred to in this Agreement. Producer acknowledges that Liberty Dental and its affiliates may have government contracts under which Liberty Dental must require its contractors to comply with certain laws that would not otherwise apply to it. Producer agrees to comply with these laws.

7.4 Amendment. This Agreement, including any Addendums attached hereto, may be amended only as provided in this Section 7.4

(a) Liberty Dental may amend. Liberty Dental may amend this Agreement by providing written notice of the amendment and its effective date to Producer thirty (30) or more days before the proposed effective date of such amendment (unless the amendment is a regulatory amendment under (2)(B) of this section).

(1) Notice. Liberty Dental may notify Producer of proposed amendments by correspondence addressed directly to Producer, or by conspicuous notice in a publication (including, but not limited to, a newsletter or web site) to which Producer has general access.

(2) Effective date.

(A) Non-regulatory amendment. A proposed amendment will become automatically effective without Producer's written agreement unless Producer notifies Liberty Dental that Producer is terminating this Agreement before the effective date of the amendment.

(B) Regulatory amendment. An amendment to bring Liberty Dental and/or Producer into compliance with an applicable law or regulation (including an interpretation of law by a regulatory agency or court), is effective immediately upon the effective date of the applicable law or regulation or upon any other date specified by Liberty Dental in any notice.

(b) Other amendments. Any other amendment must be in writing, signed by both parties, and must specify the effective date of the amendment.

7.5 Assignment.

(a) Liberty Dental may assign. Liberty Dental may assign all or any of its rights and responsibilities under this Agreement to any entity controlling, controlled by, or under common control with Liberty Dental.

(b) Liberty Dental may use administrative service providers. Producer acknowledges and agrees that persons and entities under contract with Liberty Dental may perform certain of Liberty Dental's administrative services under this Agreement.

(c) Producer may assign only with Liberty Dental's consent. Producer may not assign any of its rights, responsibilities or compensation payable under this Agreement to any person or entity without the written consent of Liberty Dental.

7.6 Notices. The parties agree that any written notice required or permitted by this Agreement (except when Liberty Dental provides notice of proposed amendments by publication) is effective if addressed to the other party at the address listed below:

Notices to Liberty Dental:

To:

Address:

E-mail:

Fax:

Notices to Producer:

To:

Address:

E-mail:

Fax:

(a) Update addresses. Producer will promptly notify Liberty Dental in writing of any change in address. This notice will be deemed to have been properly provided if addressed to the last known address of Liberty Dental. For purposes of this Section 7.6, "address" includes an electronic mail ("e-mail") address.

(b) When notice deemed received. Notice sent by mail will be deemed to have been received 3 days after mailing by first-class, postage pre-paid United States mail. Notice sent by any other means will be deemed to have been received when actually received by the receiving party. If notice is served by facsimile or e-mail, notice will be presumed to have been received 24 hours after being sent, unless the receiving party rebuts this presumption with contrary proof.

7.7 Entire Agreement. This Agreement (including any compensation schedules or Addendums that are attached hereto or incorporated into this Agreement by reference) constitutes the entire agreement between Liberty Dental and Producer and supersedes any prior agreement, oral or written, between the parties concerning the subject matter of this Agreement.

7.8 No Waiver. This Agreement may be amended or modified, and any of the terms or conditions hereof may be waived, only in the manner set forth above. Any waiver by any party of any condition, or of the breach of any provision or term contained in this Agreement, in any one or more instances, shall not be deemed to be nor construed as a further or continuing waiver of any such condition, or of the breach of any other provision of term of this Agreement.

7.9 Severability. If any provision of this Agreement is held invalid for any reason, the validity of the remainder of the Agreement will not be affected.

7.10 Headings. Bold-faced headings are intended as reference guides only and are not to be considered part of this Agreement.

7.11 Applicable Law. Nevada law shall apply to the interpretation of this Agreement.

7.12 Construction. The rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or of any amendments or exhibits to this Agreement.

7.13 Venue; Attorneys' Fees. The parties agree that any legal action or proceeding against either party with respect to this Agreement may be brought any court of the State of Nevada located in Clark County, Nevada, and by the execution and delivery of this Agreement the parties hereby accept with regard to this Agreement any such action or proceeding, generally and unconditionally, the jurisdiction of the aforesaid court. The prevailing party in any legal action or proceeding with respect to this Agreement or any other agreement executed in connection herewith shall be entitled to recover from the other party its reasonable attorney fees and court costs.

7.14 Counterparts. This Agreement may be executed in counterparts by the parties hereto, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement. A facsimile of a signature or a signature in a .pdf file transmitted via email shall have the same legal effect as an originally drawn signature.



LIBERTY

Dental Plan of Nevada

LIBERTY DENTAL AND PRODUCER EACH REPRESENT AND WARRANT THAT THE PERSON SIGNING THIS AGREEMENT HAS THE AUTHORITY TO DO SO AND IS ACTING WITHIN THE SCOPE OF HIS OR HER AUTHORITY. THE PARTIES HEREBY AGREE ON THE TERMS AND CONDITIONS OF THIS AGREEMENT

For Liberty Dental Plan of Nevada, Inc.:

For Producer:

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date