

How to become a Delta Dental producer

Becoming a Delta Dental producer is quick and easy. To get started, determine whether you should sign the Agency/Agent agreement as an Individual Agent or as an Agency.

If you're an individual agent (not associated with an agency):

Please complete and sign the Agency/Agent agreement for the appropriate state (Michigan, Ohio, Indiana, or North Carolina), using your name, address, phone number, and fax number for commission payments. Please also include:

1. A copy of your individual producer's license
2. A completed W-9
3. Your Social Security number (required by the state)
4. Direct Deposit Form and Deposit Slip or "Voided" Check

If you're signing the agreement on behalf of your agency:

If your agency has an active agreement with Delta Dental, a company officer will need to notify us in writing that you are an agent at this agency. Please provide your start date, a copy of your license, and your Social Security number. If your agency does not have an active agreement with Delta Dental, please have an officer (or another employee with the authority to bind the agency) sign the agreement. The agreement is with the agency rather than individual agents, which is why an authorized person must sign it. Please also include:

1. A copy of your agency's license
2. A completed W-9
3. Copies of all the producers' licenses
4. All the producers' Social Security numbers (required by the state)
5. Direct Deposit Form and Deposit Slip or "Voided" Check

Please email all pages of the agreement to our Group Administration Department at: groupadministration@deltadentalmi.com.



Internal Use Only: Client #: _____ Subclient #: _____ Client/Subclient Name: _____

**DELTA DENTAL PLAN OF MICHIGAN, INC.
AGENCY/AGENT AGREEMENT**

This Agency/Agent Agreement, by and between Delta Dental Plan of Michigan, Inc. ("Delta Dental"), and _____ ("Agency" or "Agent", as applicable), is effective on _____.

WHEREAS, Delta Dental provides various dental benefits to individuals who have coverage under Delta Dental dental plans ("Products"); and,

WHEREAS, Agency or Agent is a fully licensed accident and health insurance agency and/or agent and is able to promote, market, and sell various types of health care benefit plans; and,

WHEREAS, Delta Dental desires Agency or Agent to present proposals, solicit applications, sell Delta Dental's Products and to facilitate the implementation, maintenance and successful retention of said Products within the State of Michigan.

THEREFORE, based upon their mutual promises contained herein, the parties agree as follows:

SECTION I APPOINTMENT

Delta Dental appoints Agency or Agent as its nonexclusive Health Benefit Agent, and Agency or Agent accepts this appointment. Agency or Agent understands and agrees that its appointment shall be as an independent contractor to Delta Dental and not as an employee or in any other capacity. Delta Dental acknowledges that Agencies have the option of assigning specific agents to clients who purchase dental benefit plans from Delta Dental, provided, however, that the client has not specifically designated a particular agent within Agency as their designated agent with respect to such client, e.g. "Agent of Record".

SECTION II NOTICES

- A. Any notice required or permitted under this Agreement shall be given in writing, to the other party, by hand, via facsimile, via certified mail, return receipt requested, postage prepaid, or via registered mail.
- B. Notices to DELTA DENTAL shall be sent to:
Delta Dental Plan of Michigan, Inc.
P.O. Box 30416
Lansing, MI 48909
- C. Notices to Agency or Agent shall be sent to (address, phone and facsimile):
Address: _____

Phone: _____
Facsimile: _____
Email: _____
Website: _____

- D. Commission checks shall be payable to:

Company/Agency or Agent (fill in appropriate name)

- E. **Reporting:** The IRS requires that income paid to Agency or Agent be reported under Agency's or Agent's correct name and Taxpayer Identification Number (TIN) or Social Security number. The attached Form W-9 Request for Taxpayer Identification Number and Certification must be completed, signed and returned to Delta Dental prior to processing any payments. Social Security number (if checks are payable to the individual Agent) or Tax Identification Number (if checks are payable to the Company/Agency):

(1099 will be issued with this number)

SECTION III SALES TERRITORY

Agency's or Agent's nonexclusive sales territory shall be the State of Michigan.

SECTION IV DUTIES

- A. Agency or Agent shall, within its sales territory, use commercially reasonable efforts to solicit applications, enroll, and service clients for Delta Dental Products; collect initial subscription rates, service fees, and other charges; deliver contracts documents; assist Delta Dental customers and covered individuals; avoid conflicts of interest; and generally cooperate with and advance the interests of Delta Dental with its customers. However, Delta Dental may, at its option, be responsible for enrolling and servicing any client and Agency or Agent agrees to abide by the elected option of Delta Dental. In either event, Agency or Agent agrees to render satisfactory service as directed by Delta Dental. Agency or Agent has no authority to bind coverage, and all applications for coverage must be approved by Delta Dental in its sole discretion before the coverage goes into effect.
- B. Delta Dental shall furnish Agency or Agent manuals, forms, records, marketing support, promotional material, underwriting, actuarial services, formal proposals, client billings, and any other materials or supplies that Delta Dental deems appropriate. All materials furnished by Delta Dental shall remain its property. Agency or Agent shall not use or generate any materials in marketing Delta Dental's Products that have not been supplied in original form, created and approved by Delta Dental.
- C. All expenses incurred by Agency or Agent in its performance of this Agreement shall be borne exclusively by Agency or Agent and not by Delta Dental, except as is provided in Section 7(B) and as is otherwise specifically agreed in writing by Delta Dental.
- D. Delta Dental will advertise and provide promotional materials to Agency or Agent in its discretion. Agency or Agent will not use any advertisements referring to Delta Dental without Delta Dental's specific prior approval in writing.
- E. In the event any funds belonging to or due to Delta Dental are received by Agency or Agent, then Agency or Agent shall be a fiduciary for all such money received or held by it in its representation of Delta Dental, and such money shall be deposited by Agency or Agent in a separate trust account. All such money is the absolute property of Delta Dental, and Agency or Agent will be strictly responsible for this money until it is safely and fully received by Delta Dental. Such money

shall be remitted in full to Delta Dental within five working days after receipt, and if not remitted within this period, the funds shall bear interest at the rate of 8 percent per annum. Furthermore, any amount that the Agency or Agent owes to Delta Dental at any time is a first lien on any payment due or thereafter becoming due the Agency or Agent under this Agreement, and Delta Dental is authorized to deduct such indebtedness from any payment due the Agency or Agent from Delta Dental. In the event that lawsuit is brought to collect monies due to Delta Dental, Delta Dental shall be entitled to collect its costs and reasonable attorney fees associated with the lawsuit.

- F. Delta Dental has exclusive right to prescribe all contracts, forms and provisions; subscription rates, service fees, and any other charges for coverage; and to prescribe the rules governing the binding, acceptance, renewal, rejection, or cancellation of coverage.
- G. Agency or Agent shall not represent itself as having any powers except those specified in this Agency/Agent Agreement. Without limiting the foregoing, Agency or Agent shall not have authority to extend the time of payment of any service fee; to alter, waive, or forfeit any of Delta Dental's contractual rights, requirements, or conditions; or otherwise obligate Delta Dental in any way except as stated in this Agreement or otherwise specifically authorized in writing by Delta Dental.

SECTION V COMPENSATION

Agent shall be compensated for each Product sold in accordance with the commission or fee schedule set forth in Exhibit A –Product Sales Commission Fee Schedule.

SECTION VI TERM AND TERMINATION

- A. Subject to Sections VI, B. and VII, C. of this Agreement, this Agency/Agent Agreement shall be continuous from its Effective Date shown on page 1; however, in the event Agency/Agent is not actively marketing and selling Delta Dental Products nor has any active business placed with Delta Dental, this Agreement may be terminated, and, where applicable, Delta Dental's appointment of Agency/Agent shall not be renewed.
- B. Either party may terminate this Agency/Agent Agreement by giving written notice of at least thirty (30) days to the other party.
- C. Upon expiration or termination of this Agency/Agent Agreement, Agency or Agent will not act or represent itself in any way as a health benefit agent or representative of Delta Dental, except as otherwise specifically provided in the Health Benefit Agent Act.
- D. Within ten days of the expiration or termination of this Agency/Agent Agreement, Agency or Agent will return to Delta Dental all property belonging to Delta Dental, including, but not limited to, all customer lists and other records of Delta Dental business, as well as all Delta Dental confidential information.

SECTION VII REPRESENTATIONS, APPOINTMENT AND INDEMNIFICATIONS

- A. Agency or Agent represents that it is currently fully licensed in Michigan as an accident and health insurance agency or agent who is eligible to be a Health Benefit Agent, pursuant to the Health Benefit Agent Act, MCLA 550.1001 et seq. Agency or Agent shall provide Delta Dental proof that said license is active by submitting a copy of current license to Delta Dental at the time of application and thereafter at the request of Delta Dental.

- B. Delta Dental shall file an authorization for Agency or Agent to act as a Health Benefit Agent with Michigan Insurance Commissioner once this Agent Agreement is executed. Delta Dental shall also pay all required appointment fees for Agency/Agent at Delta Dental's sole option, or may charge such fees to Agency/Agent.
- C. Delta Dental may terminate this Agency/Agent Agreement immediately and without prior notice if Agency or Agent fails to maintain its licensure as an agency or health agent or if Agency or Agent violates any insurance or other law or regulation applicable to it as an insurance agency, insurance agent or health benefit agent.
- D. Agency/Agent represents and warrants that the use of Agency/Agent's content on any materials or electronic media or on a co-branded enrollment platform will not violate or infringe any copyright, trademark, patent, or proprietary right of any other party. Agency/Agent shall retain all right, title, and interest in Agency/Agent's name and website. Agency/Agent content (including, but not limited to, ownership of all copyrights and other intellectual property rights therein) and Agency/Agent marks, including any and all goodwill associated therewith, shall remain the property of Agency/Agent. Any other use of the Agency/Agent marks by Delta Dental shall require written consent of Agency/Agent. Delta Dental shall retain all right, title, and interest in the Delta Dental content and Delta Dental marks, including any and all goodwill associated therewith. Any other use of the Delta Dental marks by Agency/Agent shall require written consent of Delta Dental.
- E. Agency or Agent shall indemnify and hold Delta Dental, its directors, officers, employees, agents, and affiliated companies harmless from and against any and all claims, lawsuits, demands, liabilities, charges, judgments, settlements, costs, penalties, and expenses of whatever kind or nature that either may sustain or incur at any time and arising in any manner out of any wrongful act, error, or omission by the Agency or Agent. Agency or Agent shall also be liable for the costs and attorney's fees that Delta Dental actually incurs in defending itself against any such claims, demands, or lawsuits.

SECTION VIII BUSINESS ASSOCIATE PROVISIONS

This Section VIII satisfies the parties' obligations with respect to the business associate agreements as set forth in 45 CFR 164.502(e) and 164.504(e) of HIPAA as well as Sections 13400 through 13411 of the HITECH Act.

I. DEFINITIONS

- A. **"Business Associate"** shall have the same meaning as the term "business associate" as defined in 45 CFR 160.103.
- B. **"CFR"** is the Code of Federal Regulations.
- C. **"Covered Entity"** shall have the same meaning as the term "covered entity" as defined in 45 CFR 160.103.
- D. **Electronic Protected Health Information or EPHI** shall have the same meaning as the term "electronic protected health information," as defined in 45 CFR 160.103, limited to the electronic protected health information that is created, received, maintained, or transmitted to or on behalf of Covered Entity.

- E. **“HIPAA”** is the Health Insurance Portability and Accountability Act of 1996.
- F. **“HITECH Act”** means the Health Information Technology for Economic and Clinical Health Act, found in the American Recovery and Reinvestment Act of 2009 at Division A, title XIII and Division B, Title IV.
- G. **“Individual”** shall have the same meaning as the term “individual” as defined in 45 CFR 160.103, and shall include a person who qualifies as a personal representative in accordance with 45 CFR 164.502(g).
- H. **“Minimum Necessary”** shall have the meaning set forth in the Health Information Technology for Economic and Clinical Health Act, § 13405(b)
- I. **“Privacy Rule”** means the “Standards for Privacy of Individually Identifiable Health Information” as found in 45 CFR parts 160 and 164, as promulgated pursuant to HIPAA.
- J. **“Protected Health Information”** or **“PHI”** shall have the same meaning as the term "protected health information" as defined in 45 CFR 160.103, limited to the information created, received or accessed by Business Associate from or on behalf of Covered Entity .
- K. **“Required By Law”** shall have the same meaning as the term “required by law” as defined in 45 CFR 164.103.
- L. **“Secretary”** shall mean the Secretary of the U. S. Department of Health and Human Services, or his designee.
- M. **“Security Incident”** has the meaning in 45 CFR § 164.304, which is the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations
- N. **“Security Rule”** means the “Standards for the Security of Electronic Protected Health Information” as found in 45 CFR parts 160, 162 and 164, as promulgated pursuant to HIPAA.
- O. **“Unsecured PHI”** shall have the same meaning as the term ‘unsecured protected health information’ as defined in Section 13402 of the HITECH Act.

II. **AGREEMENTS**

- A. **Obligations of Business Associate:** In performing its duties and obligations under the Agreement, Business Associate agrees as follows:
 1. **Application of Security Rule and Privacy Rule to Business Associate.** The administrative, physical and technical safeguards set forth in the HIPAA Security Rule at 45 CFR 164.308, 164.310, 164.312, and 164.316, shall apply to Business Associate in the same manner that such sections apply to Covered Entity. The additional requirements of Subtitle D of the HITECH Act (Sections 13400 through 13411) that relate to privacy or security and that are made applicable with respect to covered entities shall also be applicable to Business Associate and are hereby incorporated into this Agreement.
 2. **Security.** Business Associate agrees to (a) implement safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the PHI that it creates, receives, maintains, or transmits on behalf of Covered Entity and, upon request of Covered Entity from time to time, Business Associate shall promptly provide Covered

Entity with information regarding such safeguards, (b) ensure that any agent, including subcontractors, to whom Business Associate provides PHI agrees to implement reasonable and appropriate safeguards to protect it, and (c) report to Covered Entity any violation of the Security Rule of which it becomes aware.

3. **Disclosure.** Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement or as required by law. Business Associate may use and disclose PHI that Business Associate obtains or creates only if such use or disclosure, respectively, is in compliance with each applicable requirement of 45 CFR 164.504(e).

Business Associate shall not use or further disclose PHI in a manner that would be impermissible if used or disclosed by Covered Entity or in a manner that would violate the Privacy Rule or other applicable federal or state law or regulations.

4. **Permissible Uses and Disclosures of PHI by Business Associate.** Subject to the foregoing provisions and in addition to the use and disclosure by Business Associate of PHI authorized elsewhere herein, Business Associate may use and disclose PHI for the following additional purposes if applicable:
 - (a) as necessary for data aggregation purposes relating to the health care operations of Covered Entity, but only as separately authorized by Covered Entity in writing,
 - (b) for the proper internal management and administration of Business Associate, but only in connection with the direct performance by Business Associate (through its employees) of services for Covered Entity to the Agreement, and
 - (c) to carry out the legal responsibilities of Business Associate.

For purposes of (b) and (c) above, Business Associate may use or disclose PHI to third parties only if the disclosure is required by law, Business Associate obtains reasonable assurances from the person to whom the PHI is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

5. **Minimum Necessary Standards.** For any disclosure or use of PHI, Business Associate shall determine and use the minimum necessary information to accomplish the intended purpose of the use or disclosure.
6. **Reporting Uses and Disclosures.** Business Associate shall report to Covered Entity any use or disclosure of PHI not provided for by this Agreement of which Business Associate becomes aware. Notice of such use or disclosure shall be provided to Covered Entity in writing as soon as possible, but in no event later than five (5) business days from the date on which Business Associate discovers said use or disclosure. The written notice to Covered Entity shall include the same information in notices sent under Section II.A.3 of this Agreement.
7. **Notification of Unauthorized Access, Use or Disclosure of Unsecured PHI.** Business Associate shall notify Covered Entity in writing of any unauthorized access, use or

disclosure of unsecured PHI as soon as reasonably possible but no later than five (5) days following the date of discovery. Such notice shall include:

- (a) a brief description of what happened, including the date of the breach and the date of the discovery,
- (b) the name(s) of the individual(s) whose PHI was used or disclosed,
- (c) the identity(ies) of the entity(ies)/person(s) to whom the use or disclosure was made,
- (d) description of the types of unsecured PHI that were disclosed,

the steps taken by Business Associate to discontinue and minimize the impact of any inappropriate use or disclosure.

8. **Reporting Security Incidents.** Business Associate shall report to Covered Entity any Security Incident of which it becomes aware, in the following time and manner:
 - (a) Any actual, successful Security Incident will be reported to Covered Entity in writing, within five (5) business days of the date on which Business Associate becomes aware of such Security Incident
 - (b) Any attempted, unsuccessful Security Incident of which Business Associate becomes aware will be reported to Covered Entity in writing, on a reasonable basis, at the written request of Covered Entity. If the Security Rule is amended to remove the requirement to report unsuccessful attempts at unauthorized access, this subsection (ii) shall no longer apply as of the effective date of the amendment of the Security Rule.
9. **Mitigation of Unauthorized Access, Use or Disclosure of Unsecured PHI.** Business Associate agrees that, to the extent practicable, it shall mitigate any harmful effect resulting from any unauthorized acquisition, use or disclosure of unsecured PHI caused by Business Associate's violation of the requirements of this Agreement.
10. **Agents, Contractors and Subcontractors.** Business Associate shall ensure that any agents, contractors or subcontractors to whom it provides PHI received from Covered Entity, or PHI that is created or received by Business Associate on behalf of Covered Entity, agree to the same restrictions and conditions applicable to Business Associate as set forth herein with respect to PHI. Business Associate agrees to enter into a written contract with such agents, contractors or subcontractors to ensure that such contractors, subcontractors or agents abide by the same restrictions and conditions that apply to the Party when acting as a Business Associate with regard to PHI. Business Associate shall provide a copy of such contracts to Covered Entity upon request.
11. **Books and Records.** Business Associate shall make its internal practices, books, and records relating to the use and disclosure of PHI received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity, available to the Secretary and to Covered Entity for purposes of determining its compliance with HIPAA, the Privacy Rule, the Security Rule, and other applicable federal and/or state law or regulation. Business Associate shall notify Covered Entity immediately of any such requests and shall provide Covered Entity with a copy of the request and any documents or information provided in response to such requests.

12. **Requests for Information or Access.** Business Associate shall notify Covered Entity in writing within five (5) business days of any requests from individuals seeking access to or copies of PHI maintained by Business Associate for or on behalf of Covered Entity, and respond to such requests when and as directed by Covered Entity.
13. **Requests to Amend.** Business Associate shall notify Covered Entity in writing within five (5) business days of the receipt of any requests from individuals seeking to amend PHI maintained by Business Associate for or on behalf of Covered Entity, and respond to such requests when and as directed by Covered Entity. Additionally, when and as notified by Covered Entity, Business Associate shall incorporate any amendments, corrections and/or other documents or information to PHI maintained by Business Associate and shall notify its agents, contractors and subcontractors who receive PHI of any such amendments, corrections and/or other documents or information.
14. **Request for Accounting.** Business Associate agrees to document disclosures of Protected Health Information, and information related to such disclosures, as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR § 164.528 and any additional regulations promulgated by the Secretary pursuant to HITECH Act § 13405(c). Business Associate agrees to implement an appropriate record keeping process that will track, at a minimum, the following information: (i) the date of the disclosure; (ii) the name of the entity or person who received the Protected Health Information, and if known, the address of such entity or person; (iii) a brief description of the Protected Health Information disclosed; and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure.

Business Associate shall notify the Covered Entity in writing within five (5) business days of any requests made by an individual directly to Business Associate for an accounting of disclosures of PHI. If the request was made as a result of Covered Entity providing the individual with a list of business associates acting on behalf of Covered Entity under Section 13405 of the HITECH Act, Business Associate shall provide such accounting directly to the individual and shall provide Covered Entity with a copy of any such accounting in writing within five (5) business days of receiving the request. Business Associate shall respond to all other requests for an accounting when and as directed by Covered Entity. Additionally, when and as directed by Covered Entity, Business Associate shall provide for an accounting of any and all disclosures of PHI made by or on behalf of Business Associate during the six years prior to the date of the request. The accounting obligations of Business Associate hereunder shall not apply to (a) disclosures made for purposes of treatment, payment, or health care operations (as defined in the Privacy Rule), (b) disclosures made to the individual who is requesting the accounting, (c) disclosures made prior to April 14, 2003, (d) disclosures made to law enforcement officers, correctional institutions, or for national security purposes, (e) disclosures incidental to a use or disclosure otherwise permitted or required by the Privacy Rule, as provided for in 45 CFR 164.502, (f) disclosures made pursuant to an authorization as provided in 45 CFR 164.508, (g) disclosures made as part of a limited data set in accordance with 45 CFR 164.514(e).

15. **Prohibition against Sale or Marketing of PHI.** Except as otherwise provided in Section 13405 of the HITECH Act, Business Associate shall not (a) directly or indirectly receive remuneration in exchange for any PHI of an individual; or (b) use or disclose PHI for any purpose related directly or indirectly to any marketing or marketing communication.

16. In the event Business Associate receives a subpoena, court or administrative order or other discovery request or mandate for release of Protected Health Information, Business Associate will respond as permitted by 45 CFR § 164.512(e) and (f) following consultation with Covered Entity. Business Associate shall notify Covered Entity of the request as soon as reasonably practicable, but in any event within two (2) business days of receipt of such request.
- B. **Violation of Business Associate Agreement Standards and Termination.** If either party knows or discovers a pattern of activity or practice of the other party that constitutes a material breach of the other party's obligations under this Agreement or under applicable federal standards, the discovering party agrees to immediately notify the other party in writing as to the nature and extent of such breach, and shall provide the other party a reasonable amount of time to cure such breach. A reasonable amount of time shall depend on the nature and extent of the breach, shall be clearly stated in the notice, but in no case shall the period for cure be less than five (5) business days. Notwithstanding the foregoing, should the discovering party determine that the breach is incurable, or that the other party has repeatedly engaged in such impermissible use or disclosure despite prior notice, the discovering party must terminate this Agreement, if feasible, upon written notice to the breaching party, without damages or liability thereto; or, if termination is not feasible, report the problem to the Secretary.
- C. **Return of PHI upon Termination.** At termination of the Agreement, Business Associate shall return or destroy all PHI received from Covered Entity, or created by or received by Business Associate on behalf of Covered Entity, that Business Associate maintains in any form such that it shall retain no copies of such PHI. Upon request of Covered Entity, Business Associate shall provide a written certification of the return and/or destruction of PHI. If the Parties concur that the return or destruction of such PHI by Business Associate is not feasible, then Business Associate shall continue to extend the protections required hereunder to the PHI for as long as it maintains the PHI. Further, Business Associate shall limit any further use or disclosure of the PHI to those purposes that make its return or destruction unfeasible. This provision shall survive the termination of this Agreement.
- D. **Security.** The Parties shall work together in good faith to cooperate with each other's current and future security policies and procedures to ensure the integrity, confidentiality and availability of PHI in a manner that complies with HIPAA and the Security Rule, as amended from time to time.
- E. **Electronic Transactions and Code Sets.** To the extent that the services performed by Business Associate pursuant to the Agreement involve transactions that are subject to the regulations governing electronic transactions and code sets issued pursuant to HIPAA, Business Associate shall conduct such transactions in conformance with such regulations, as amended from time to time.
- F. **Record Keeping.** Business Associate agrees to implement an appropriate record keeping process to enable it to comply with the HIPAA requirements applicable to it under this Agreement and the Privacy and Security Rules.
- G. **Confidential and Proprietary Information.** Business Associate may receive, create, or have access to confidential and/or proprietary information of Covered Entity concerning its business affairs, property, operations, computer systems, dentists and providers, and strategies. Business Associate agrees to hold such confidential and/or proprietary information in strict confidence, to maintain and safeguard the confidentiality of such

information, and to use such information solely to perform services or provide goods to Covered Entity as required by this Agreement.

- H. **Amendment.** Except as otherwise provided in this Section II.H, this Agreement may be amended, modified, or supplemented only by a written instrument executed by the Parties. Upon enactment of any law or regulation affecting the use or disclosure of PHI, or the publication of any decision of a court of the state or the United States relating to any such law, or the publication of any interpretative policy or opinion of any government agency charged with the enforcement of any such law or regulation, Covered Entity may amend the Agreement in such manner as it determines necessary to comply with such law or regulation, and Business Associate agrees to be bound by such amendment unless within thirty (30) days of its receipt of notice of such amendment, it notifies Covered Entity that it rejects such amendment. Upon receipt of such notice of rejection, Covered Entity may terminate the Agreement immediately upon written notice.
- I. **Waiver.** No action taken pursuant to this Agreement, including, without limitation, any investigation by or on behalf of any party, shall be deemed to constitute a waiver by the party taking such action in compliance with any representations, warranties, covenants, or agreements contained herein. The waiver by a party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach.
- J. **Binding Effect.** Except as otherwise provided herein, the terms and conditions of this Agreement shall remain in full force and effect. Additionally, the terms and conditions of this Agreement shall remain in full force and effect following termination of the Agreement.
- K. **Reimbursement of Costs.** Business Associate shall reimburse Covered Entity for any and all costs and expenses, whether direct or indirect, incurred by Covered Entity in providing any notice required by law or regulation as a result of any unauthorized acquisition, use or disclosure of unsecured PHI caused by Business Associate's breach of the terms of this Agreement or its failure to secure PHI in accordance with the guidelines published by the Department of Health and Human Services.
- L. **Indemnification by Business Associate.** Business Associate hereby agrees to indemnify, defend, and hold harmless Covered Entity, its board of directors, officers, members, agents, employees, subcontractors, and personnel (the "Indemnities") from and against any and all claims, demands, suits, actions, losses, expenses, costs (including reasonable attorney fees), obligations, damages, deficiencies, causes of action, and liabilities (collectively, "Claims") incurred by the Indemnities as a result of, or that are proximately caused by, (1) Business Associate's breach of this Agreement; or (2) Business Associate's violation of HIPAA or any amendments thereto.

Covered Entity shall provide prompt written notice of relevant information concerning the Claims to Business Associate. Covered Entity shall provide such reasonable assistance (at Business Associate's expense), as may reasonably be requested by Business Associate, in connection with the defense of any Claim. Notwithstanding the foregoing: (1) Business Associate shall not settle any such Claim without the consent of Covered Entity, which consent shall not be unreasonably withheld, and (2) the indemnification obligations of Business Associate hereunder shall not extend to Claims attributable solely to the negligence, gross negligence, intentional misconduct, or willful malfeasance of Covered Entity

- M. **Indemnification by Covered Entity.** Covered Entity shall indemnify, defend, and hold harmless Business Associate, its board of directors, officers, members, agents, employees, subcontractors, and personnel from and against any and all claims, demands, suits, actions,

losses, expenses, costs (including reasonable attorney fees), obligations, damages, deficiencies, causes of action, and liabilities (collectively, "Claims") incurred by Business Associate as a result of, or that are proximately caused by, (1) Covered Entity's breach of the terms of this agreement or; (2) Covered Entity's violation of HIPAA and any amendments thereto.

Business Associate shall provide prompt written notice of relevant information concerning the Claims to Covered Entity. Business Associate shall provide such reasonable assistance (at Covered Entity's expense) as may reasonably be requested by Covered Entity in connection with the defense of any Claim. Notwithstanding the foregoing: (1) Business Associate shall not settle any such Claim without the consent of Covered Entity, which consent shall not be unreasonably withheld, and (2) the indemnification obligations of Covered Entity hereunder shall not extend to Claims attributable solely to the gross negligence, intentional misconduct, or willful malfeasance of Business Associate.

- N. **Injunction.** The Parties acknowledge and agree that in the event of a breach or threatened breach by Business Associate of its duties and obligations hereunder, Covered Entity shall be irreparably and substantially harmed, and remedies at law will not be an adequate remedy for such breach. Accordingly, in such event, the harmed Party shall be entitled to seek immediate injunctive relief against such breach or a threatened breach. Such rights to injunctive relief shall be in addition to, and not in limitation of, any other legal and equitable relief available to the harmed Party under applicable law.
- O. **Assignment.** Business Associate may not sell, assign, transfer or otherwise convey any of its rights or delegate any of its duties under this Agreement without the prior written consent of Covered Entity.
- P. **Successors.** This Agreement will be binding upon and will inure to the benefit of the Parties to this Agreement and their respective permitted successors and assigns, subject to the transfer restrictions and expiration or termination provisions set forth above.
- Q. **Severability.** The provisions of this Agreement are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.
- R. **Statutory and Regulatory References.** A reference in this Agreement to a section of any statute or regulation means the section as currently in effect or amended, and for which compliance is required.
- S. **Headings.** The headings of the articles and several paragraphs of this Agreement are inserted for convenience of reference only and are not intended to be part of or to affect the meaning or interpretation of this Agreement.
- T. **Governing Law.** This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Michigan without regard to conflict of law principles.
- U. **Notices.** All notices, requests, demands and other communications which are required or may be given pursuant to the terms of this Section and Agreement shall be in written or electronic form and shall be deemed delivered (1) on the date of delivery when delivered by hand, (2) on the date of transmission when sent by facsimile transmission during normal business hours with written confirmation of receipt, (3) one day after dispatch when sent by overnight courier maintaining records of receipt, or (4) three days after dispatch when sent by certified mail, postage prepaid, return-receipt requested; provided that, in any such case,

such communication is addressed to the Agency or Agent and Delta Dental at the addresses provided in Section II of the Agency/Agent Agreement.

SECTION IX EXCHANGE PRODUCTS

- A.** Any Agency/Agent that is marketing, promoting and selling various types of Products in the State and/or Federally funded Exchange(s) will be subject to Exhibit B - Exchange Market Products Only, which may change from time to time as the requirements of the Exchange may change. The most recent Exhibit B shall be binding on all Agencies/Agents that sell any Delta Dental Exchange Products.

SECTION X MISCELLANEOUS

- A. Assignment**
Agency or Agent shall not in any way sell, assign, or pledge any interest, entitlement, payment, or duty arising under this Agency/Agent Agreement without the prior written consent of Delta Dental.
- B. Successors.** This Agreement shall be binding upon and will insure to the benefit of the parties to this Agreement and their respective permitted successors and assigns, subject to the transfer restrictions and expiration or termination provisions set forth above.
- C. Entire Agreement**
This Agency/Agent Agreement shall supersede all prior written and/or verbal agreements and representations and shall constitute the sole and entire agreement between Delta Dental and Agency or Agent. No change, alteration, or modification of the terms of this Agency/Agent Agreement may be made except by agreement in writing signed by an authorized representative of Delta Dental.
- D. Arbitration**
Delta Dental and Agency or Agent agree that any controversy arising out of or related to this Agreement, or to the alleged breach of this Agreement, shall be settled by arbitration in accordance with the commercial rules then pertaining of the American Arbitration Association, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof.
- E. Law Governing Agreement**
This Agreement is governed by and construed in accordance with the laws of the State of Michigan, and shall be interpreted in accordance with the laws of the State of Michigan, without regard to principles of conflicts of laws. Any cause of action that may arise with regard to this Agreement shall have venue in the State of Michigan.
- F. Waiver**
Failure by Delta Dental to insist upon compliance with any provision of this Agency/Agent Agreement at any time or under any set of circumstances shall not operate to waive or modify the provisions or in any manner render it unenforceable as to any other time or as to any other occurrence, whether the circumstances are or are not the same, and no waiver of any terms or conditions of this Agency/Agent Agreement shall be valid or of any force or effect unless contained in a written memorandum specifically expressing such waiver and signed by a person duly authorized by Delta Dental to sign such waiver.

G. Third-Party Beneficiaries

This Agency/Agent Agreement is not intended to create any third party beneficiaries or to confer any rights on any person other than Delta Dental and Agency or Agent.

H. Excuse of Non-Performance

Neither Delta Dental nor Agency or Agent will have violated this Agency/Agent Agreement if it is prevented from performing any of its obligations for any reason beyond its control, including, without limitation, acts of God, acts of war or terrorism, acts of public enemy, flood, storm, strikes, or regulatory agencies.

I. Severability. The provisions of this Agreement are severable, and in the event any provision hereof is determined to be invalid or unenforceable, such invalidity or unenforceability shall not in any way affect the validity or enforceability of the remaining provisions hereof.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as dated on page 1.

“AGENCY” or “AGENT”

By: _____
(Authorized signature)

Title: _____

DELTA DENTAL PLAN OF MICHIGAN, INC.

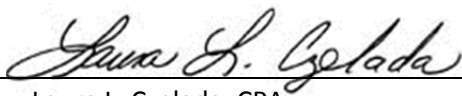
By:  _____
Laura L. Czelada, CPA
President and Chief Executive Officer

EXHIBIT A - PRODUCT COMMISSION SCHEDULE

Applicability. Subject to the conditions and requirements of this Exhibit A, this Group Product Commission Schedule or any subsequently published Group Product Commission Schedule, will apply to both original and renewal business as of the date published by Delta Dental, and in conjunction with the timeframe in which the commissions were earned by Agency/Agent.

Agent of Record. Provided that Agent (1) continues to be designated by a group as the Agency/Agent with respect to such group, e.g. "Agent of Record," and (2) performs services related to such group in a manner satisfactory to Delta Dental, then for all new business and all business renewing, Delta Dental will pay Agency/Agent commissions at the times and in the amounts set forth on the then published Group Product Commission Schedule. Commission for fully insured groups will be based on paid premium. Should Agency/Agent negotiate to be paid commissions for specific groups that deviate from the Group Product Commission Schedule, the commission will be disclosed, and it will be acknowledged by Agency/Agent by virtue of Agency/Agent's signature on the group's Delta Dental Employer/Client Information Form and Agreement. In no event will Delta Dental pay Agency/Agent any commissions for any time period occurring after any expiration or termination of this Agreement. Notwithstanding any other provisions of this Agreement, no commission shall be paid to Agent for any group on or after the date the group withdraws its appointment of Agency/Agent as the group's Agent of Record, whether by affirmative withdrawal or by appointment of another agency or agent as Agent of Record for such group. Delta Dental may report in accordance with applicable state and/or federal regulations to Agency's or Agent's designated groups all commissions paid to Agency/Agent for work performed on behalf of such groups. Agency or Agent shall disclose in writing to the client, in advance of the purchase of business, the nature of any compensation the Agency or Agent will or may receive or be eligible to receive from Delta Dental in connection with the placement or servicing of the client's business, as well as the nature of any other material business relationship between the Agency or Agent and Delta Dental. This requirement is a condition to eligibility for receiving compensation under Delta Dental's agency/agent compensation program as described in this Agreement. Delta Dental will report to Agency's or Agent's designated clients all commissions paid to Agency or Agent for work performed on behalf of such clients.

New and Renewal Business Commission Schedule

COMMISSION SCHEDULE	
CLIENT SIZE	STANDARD PERCENT OF PREMIUM OR ADMINISTRATIVE FEES & CLAIMS PAID
1 to 24 subscribers	10.00%
25 to 49 subscribers	7.75%
50 to 99 subscribers	6.25%
100 to 199 subscribers	4.75%
200 to 499 subscribers	3.00%
500 to 999 subscribers	2.00%
1,000 to 2,499 subscribers	1.20%
2,500 to 4,999 subscribers	0.70%
5,000 or more subscribers	Negotiated on a client-by-client basis

Commission Payment. Subject to the conditions of this Agreement, Delta Dental will pay commissions monthly based upon applicable premiums or administrative fees or as negotiated, if any, paid in cash and received by Delta Dental in the previous month, provided this Agreement has not expired or terminated or the group has not withdrawn its appointment of Agent or appointed another agency or agent as its Agent of Record prior to the last day of the previous month. If the monthly Agent commission does not exceed twenty-five dollars (\$25.00), Delta Dental shall not be obligated to produce

a commission check until the commission sum exceeds twenty-five dollars (\$25.00) or at a minimum, once per calendar year.

If any application is rejected or any Group Product is cancelled or defaulted on, in whole or in part, for any reason, before the expiration of the contract period, or if any overpayment is made to Agent, the pro rata compensation paid to the Agent on the value of the Group Product cancelled or defaulted on or the amount overpaid the Agent shall be charged to the Agent and shall constitute an indebtedness of the Agent to Delta Dental.

Overpayment. If any application is rejected or any client contract is cancelled or defaulted on, in whole or in part, for any reason, before the expiration of the contract period, or if any overpayment is made to Agency or Agent, the pro rata compensation paid to the Agency or Agent on the amount of the contract cancelled or defaulted on or the amount overpaid the Agency or Agent shall be charged to the Agency or Agent and shall constitute an indebtedness of the Agency or Agent to Delta Dental.

EXHIBIT B – EXCHANGE MARKET PRODUCTS ONLY

Any Agent that is marketing, promoting and selling various types of Products in the State and/or Federally funded Exchange(s) pursuant to the Patient Protection and Affordable Care Act (“PPACA”) will be subject to this Exhibit, which may change from time to time as the rules and requirements of the Exchange may change. The most recent version of this Exhibit shall be binding on all Agents that sell any Delta Dental Exchange Products.

Compliance. Agent warrants and represents that it is and shall remain in compliance with any and all Federal, State and local laws. To the extent that Agent is delegated any duties or administrative services by Delta Dental relating to Exchange business, Agent agrees to comply with the requirements and standards stated in the following provisions of Federal law to the extent they apply to the delegated duties:

CFR 156 subpart C;

CFR 155 subparts H and K and 45 CFR 155.705 regarding Exchange processes, procedures and standards;

CFR 155.220 regarding enrollment;

CFR 156.705 and 45 CFR 715 regarding maintenance of records and compliance reviews.

Pursuant to 45 CFR 156.340, Agent agrees to permit access to the Secretary of the Department of Health and Human Services (HHS) or the Office of Inspector General of the HHS, or its designees in connection with their right to evaluate through audit, inspection or other means, the Agent’s books, contracts, computers or other electronic means, including medical records and documentation related to a health plan issued through a Federally Facilitated Exchange until 10 years from the final date of the Agreement period.

Completion of Curriculum. Agent agrees that he or she has registered and completed the required Exchange training or curriculum and shall submit proof of completion to Delta Dental prior to any receipt of payment of commission from Delta Dental.

Commission. Agent commission shall be paid in accordance with Exhibit A.