

BUSINESS ASSOCIATE AGREEMENT

Health Insurance Portability and Accountability Act (HIPAA)

- A.** Sistemas Medicos Nacionales, S.A. de C.V. and its wholly-owned subsidiary, Unicare Systems, Inc. ("SIMNSA"), and _____ are parties to this Business Associate Agreement ("Agreement") pursuant to which _____ (herein "Business Associate") provides a service to, or performs a function on behalf of SIMNSA and, in connection therewith, uses or discloses Protected Health Information ("PHI"), which includes Electronic Protected Health Information ("EPHI"), that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and certain privacy and security regulations found at 45 CFR Parts 160 through 164 and as amended through the HITECH Act ("HIPAA Regulations");
- B.** SIMNSA is a Covered Entity as that term is defined in the HIPAA Regulations. Business Associate creates or receives PHI and/or EPHI from or on behalf of Health Plan and is, therefore, a Business Associate, as defined in the HIPAA Regulations;
- C.** Pursuant to the HIPAA Regulations, Business Associate must agree in writing to certain mandatory provisions regarding the safeguarding, use and disclosure of PHI and EPHI and is subject to additional privacy and security requirements pursuant to the HIPAA Regulations; and
- D.** The purpose of this Agreement is to satisfy the requirements of the HIPAA Regulations Business Associate contract requirements set forth at 45 Code of Federal Regulations § 164.314(a) and § 164.504(e), and its implementing regulations including, but not limited to, 45 Code of Federal Regulations parts 142, 160, 162, and 164, hereinafter referred to as the Privacy and Security Rules, as they may be amended from time to time.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, SIMNSA and Business Association (collectively "parties") agree as follows:

1. Definitions

Unless otherwise provided in this Agreement, capitalized terms have the same meaning as set forth in the HIPAA Regulations, 45 Code of Federal Regulations Parts 160 and 164.

2. Use and Disclosure of Protected Health Information; Rights

Except as otherwise provided in this Agreement, Business Associate may use or disclose protected health information solely to the perform functions, activities or services for or on behalf of SIMNSA, as specified in this Agreement, provided that such use or disclosure does not violate the Privacy Rule. The uses and disclosures of PHI may not exceed the limitations applicable to SIMNSA and/or Business Associate under the regulations except as authorized for management, administrative or legal responsibilities of the Business Associate. Business Associate shall determine and disclose the minimum necessary PHI to accomplish the intended purpose of such disclosure.

3. Further Disclosure of PHI

The Business Associate shall not use or further disclose PHI other than as permitted or required by this Agreement, or as required by law.

4. Safeguarding PHI

The Business Associate shall use appropriate safeguards to prevent use or disclosure of PHI other than as provided for by this Agreement. Business Associate shall comply with the requirements in 45 CFR Part 164, Subpart C applicable to business associates, including the use of administrative, physical and technical safeguards to protect electronic protected health information.

5. Unauthorized Use or Disclosure of PHI; Notification of Breach

The Business Associate shall report to SIMNSA any use or disclosure of the PHI not provided for by this Agreement or otherwise in violation of the Privacy and Security Rules. Such reporting shall include the identification of each individual whose PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach. The Business Associate shall also follow any applicable breach reporting procedures as required by law.

6. No Intimidation or Retaliation

The Business Associate shall not threaten, intimidate, coerce, harass, discriminate against, or take any other retaliatory action against any person for initiating or participating in a corrective action under the HIPAA regulations, or for opposing a practice the person reasonably believes is unlawful.

7. Agents and Subcontractors of the Business Associate

The Business Associate shall ensure that any agent, employee, subsidiary, and affiliate (including subcontractors), to which the Business Associate provides PHI received from, or created or received by the Business Associate on behalf of SIMNSA, shall comply with the same

restrictions and conditions that apply through this Agreement to the Business Associate with respect to such information.

8. Access to PHI

At the request of SIMNSA or an Individual, and in the time and manner designated by SIMNSA or the Individual, the Business Associate shall provide access to PHI in a Designated Record Set to the Individual or SIMNSA to meet the requirements of 45 Code of Federal Regulations §164.524.

- a. The Business Associate shall maintain for a period of six (6) years all Designated Record Sets relating to PHI received from, or created or received by Business Associate on behalf of, SIMNSA.

9. Amendments to Designated Record Sets

The Business Associate shall make any amendment(s) to PHI in a Designated Record Set that SIMNSA directs or at the request of the Individual, and in the time and manner designated by SIMNSA in accordance with 45 Code of Federal Regulations §164.526.

10. Documentation of Uses and Disclosures

The Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations §164.528.

11. Accounting of Disclosure

The Business Associate shall provide to SIMNSA or an Individual, in the time and manner designated by SIMNSA or, in the case of an Individual as required by law, information collected in accordance with 45 Code of Federal Regulations section 164.528, to respond to a request by the Individual for an accounting of disclosures of PHI in accordance with 45 Code of Federal Regulations §164.528.

- a. The Business Associate shall maintain for a period of six (6) years records of all disclosures of PHI, other than for the purpose(s) set forth in this Agreement, including the date, name of recipient, description of PHI disclosed and purpose of disclosure.

12. Records Available to Covered Entity and Secretary

The Business Associate shall make available records related to the use, disclosure, and privacy protection of PHI received from SIMNSA, or created or received by the Business Associate on behalf of SIMNSA, to SIMNSA or to the Secretary of the United States Department of Health and Human Services for purposes of investigating or auditing SIMNSA's

or Business Associate's compliance with the privacy requirements, in the time and manner designated by SIMNSA or the Secretary.

13. Destruction of PHI

Upon termination of the Agreement for any reason, the Business Associate shall:

- a. Return all PHI received from SIMNSA, or created or received by the Business Associate on behalf of SIMNSA required to be retained by the Privacy Rule; or
- b. Return or destroy all other PHI received from SIMNSA, or created or received by the Business Associate on behalf of SIMNSA.

This provision shall apply to PHI in possession of subcontractors or agents of the Business Associate. The Business Associate, its agents or subcontractors shall retain no copies of the PHI.

- c. In the event the Business Associate determines that returning or destroying the PHI is not feasible, the Business Associate shall provide SIMNSA notification of the conditions that make return or destruction not feasible. If SIMNSA agrees that the return of the PHI is not feasible, the Business Associate shall extend the protections of this Agreement to such PHI and limit further use and disclosures of such PHI for so long as the Business Associate, or any of its agents or subcontractors, maintains such PHI.

14. Obligations of SIMNSA

To assist the Business Associate in the proper use and disclosure of PHI, SIMNSA shall:

- a. Provide Business Associate with the Notice of Privacy Practices that SIMNSA produces in accordance with 45 Code of Federal Regulations §164.520, as well as any changes to such notice;
- b. Provide Business Associate with any changes in, or revocation of, permission by an Individual to use or disclose PHI, if such changes affect Business Associate's permitted or required uses and disclosure;
- c. Notify Business Associate of any restriction on the use or disclosure of PHI that SIMNSA has agreed to in accordance with 45 Code of Federal Regulations § 164.522; and
- d. Not request Business Associate to use or disclose PHI in any manner that would not be permissible under the HIPAA Regulations if the PHI were to be so used or disclosed by SIMNSA.

15. Indemnification

Business Associate agrees to defend, indemnify, and hold harmless SIMNSA and SIMNSA's officers, members, employees and agents from and against any and all claims, fines, penalties, liabilities, demands, damages, losses, costs, expenses (including without limitation costs, reasonable attorneys' fees, fines, penalties, and assessments) that are caused by or result from Business Associate's breach of this Agreement or any acts or omissions of Business Associate or Business Associate's officers, members, employees, agents, or subcontractors arising out of the use and disclosure of protected health information or violation of the HIPAA Rules.

16. Amendments to Agreement

The Parties agree to take such action as is necessary to amend this Agreement as necessary for SIMNSA and/or Business Associate to comply with the requirements of the Privacy Rule, the Security Rule and its implementing regulations.

17. Mitigation of Disallowed Uses and Disclosures

The Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to the Business Associate of a use or disclosure of PHI by the Business Associate in violation of the requirements of this Agreement or the Privacy Rule.

18. Termination

SIMNSA and Business Associate shall each have the right to terminate the Agreement upon written notice if either party determines that the other party has breached a material term of the provisions of this Agreement; provided that the remedies under this Agreement and the section(s) of the Agreement related to termination, if any, shall be cumulative.

19. No Remuneration

The Business Associate shall not directly or indirectly receive remuneration in exchange for any Individual's PHI, absent an exception under the HIPAA Regulations.

20. Survival of Terms

The obligations of the Business Associate under Sections 8(a), 11 and 13 of this Agreement shall survive the termination of the Agreement.

21. No Third Party Beneficiaries

Nothing in this Agreement is intended to nor shall it confer any rights on any other persons except Covered Entity and Business Associate and their respective successors and assigns.

22. State Law Requirements

To the extent that state law is more stringent than the HIPAA Regulations, any use or disclosure of PHI by the Business Associate shall be made in accordance with state law.

23. Notice

All notices required to be given under this Agreement must be given in writing and shall be deemed to have been sufficiently given if personally delivered or deposited in the United States mail, postage prepaid, certified or registered mail, return-receipt requested, addressed as follows:

If to SIMNSA.:

SIMNSA Health Plan
2088 Otay Lakes Road, Suite
102 Chula Vista, CA 91913

If to Business Associate:

Attn: _____

24. Interpretation

Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits SIMNSA and Business Associate to comply with the HIPAA Regulations.

25. Effective Date This Amendment shall be effective on _____.

IN WITNESS WHEREOF, the parties have signed this Agreement as of the date(s) indicated below.

Executed at _____

Business Associate

By: _____
Name: _____
Date: _____

SIMNSA/Covered Entity

By: _____
Name: _____
Date: _____

SOLICITOR AGREEMENT

This Solicitor Agreement (this "Agreement") is made and entered into on this _____ day of _____, _____, by and between Sistemas Medicos Nacionales, S.A. de C.V. ("PLAN") and _____ ("Solicitor") located at _____.

1. SOLICITOR'S DUTIES

1.1. Marketing. Solicitor and all persons employed or retained by Solicitor to perform services under this Agreement on behalf of Solicitor ("Solicitor's Agent(s)") are hereby authorized by PLAN to market and service PLAN Group Medical and Hospital Service Agreements and other products ("Group Products").

1.2. Marketing Materials/Orientation. Solicitor and Solicitor's Agents shall utilize only those marketing materials that have been preapproved in writing or provided by PLAN. All records and materials you receive from PLAN in connection with your appointment as Solicitor with PLAN and all insured records are, and will remain, the property of PLAN. Upon termination of this Agreement, Solicitor immediately shall destroy, or return if the materials have been provided by PLAN all such marketing materials. Solicitor and Solicitor's agents shall attend initial and ongoing orientation and training programs as required by PLAN.

1.3. Maintenance of Applicable Licensure. Solicitor and each Solicitor's Agent shall obtain and maintain any and all applicable licenses, appointments, or authorizations necessary to market products on behalf of health care service plans under the laws of the State of California, including without limitation the Knox Keene Health Care Service Plan Act of 1975 ("Knox Keene Act"). PLAN will cooperate with Solicitor in making required appointments of Solicitor and Solicitor's Agents. Solicitor and all Solicitor's Agents shall provide a copy of their applicable licenses to PLAN upon request. Solicitor shall promptly notify PLAN of the institution of any disciplinary proceedings against Solicitor or any of Solicitor's Agents by the California Insurance Commissioner or Department of Managed Health Care ("DMHC"), and/or by any other regulatory body having jurisdiction over the licensure or activities of Solicitor or any agent thereof.

1.4. Compliance with Applicable Law and PLAN Health Plans. Solicitor and each of Solicitor's Agents shall become familiar with and shall comply with any applicable federal or State laws and regulations which govern the conduct of health care service plans and the activities of Solicitor and Solicitor's Agents in relation to health care service plans. This obligation shall include the federal privacy regulations as stipulated in the attached Business Associate Agreement and incorporated herein by reference. Solicitor shall not employ any individual who is currently suspended or barred by the DMHC from operating as a solicitor, or who is prohibited from serving as an officer, director, employee, or associate of any health care service plan or solicitor firm in accordance with the Knox Keene Act, or who is suspended or barred by the Department of Insurance from soliciting or selling insurance products. Solicitor shall not engage in any act or practice in violation of an order by the DMHC to cease and desist from engaging in such act or practice, unless such order is stayed in accordance with the Knox Keene Act. Without in any way limiting the generality of the foregoing, Solicitor agrees that in

connection with its marketing on behalf of PLAN, it will not discriminate against any person on the basis of their genetic characteristics.

1.5. Solicitor Training. Solicitor and each of Solicitor's Agents shall become familiar with, and shall comply with, PLAN's organization, rules, instructions, procedures, and Group Products. Prior to soliciting the sale of any Group Products pursuant to this Agreement, Solicitor shall participate in PLAN marketing training programs, and during the term of this Agreement, Solicitor shall, from time to time, as required by PLAN, attend training seminars and educational meetings concerning PLAN organization, procedures, and Group Products. PLAN shall be responsible for training Solicitor regarding PLAN's Group Products, and shall notify Solicitor of any significant changes to such Group Products.

1.6. Books and Records. The parties hereto acknowledge that the Knox Keene Act requires, and Solicitor shall comply with, the following:

1.6.1. Solicitor shall keep and maintain current books and records including a current list of the names and addresses of its shareholders, principals and/or partners, if any, and a list of all employees who will market and service PLAN Group Products pursuant to this Agreement, as well as such other information as may be required by the DMHC.

1.6.2. All records, books, and papers of Solicitor shall be open to inspection by the DMHC during Solicitor's normal business hours, and shall not be removed from the State of California without prior consent of the DMHC.

1.6.3. Solicitor shall make such special reports to the DMHC as the DMHC may require from time to time.

1.6.4. Solicitor shall preserve, for a period of not less than five (5) years, the last two (2) years of which shall be in an easily accessible place at Solicitor's offices, all books of account and other records required under the provisions of, and for the purpose of the Knox Keene Act. After such books and records have been preserved for two (2) years, they may be warehoused, stored, or microfilmed, so long as they are available to the DMHC within not more than five (5) days following a request therefore.

2. LIMITATIONS ON AUTHORITY OF SOLICITOR

2.1. No Authority to Legally Bind PLAN. Subject to applicable law, Solicitor shall have no authority, under this Agreement or otherwise, to do or perform, and shall not do or perform, any of the following in the name of or on behalf of PLAN or any corporate member, director, officer or principal thereof, without the express written consent of the Chief Operating Officer or Chief Executive Officer of PLAN:

- 2.1.1. Incur any debt or liability;
- 2.1.2. Bind or execute any contract;
- 2.1.3. Make, alter, or discharge any contract;
- 2.1.4. Add or waive any Group Product term condition;

- 2.1.5. Waive any default by a PLAN customer;
- 2.1.6. Quote rates other than those provided by PLAN;
- 2.1.7. Extend the time for or method of payment by any PLAN customer;
- 2.1.8. Withhold monies or property of PLAN;
- 2.1.9. Settle or adjust claims against PLAN; and
- 2.1.10. Make binding representations regarding benefits or coverages provided under PLAN Group Products.

2.2. No Authority to Collect Premiums. Neither Solicitor nor any Solicitor's Agent shall have any authority to collect or attempt to collect any payments or premiums tendered by or on behalf of enrollees of PLAN Group Products. In the event that Solicitor receives payment for the account of PLAN for any reason whatsoever, Solicitor shall (i) comply with the requirements of California law, including, without limitation, California Code of Regulations, Title 10, Section 1300.67.12, as further set forth below, and (ii) immediately pay over all monies to PLAN. Any failure of Solicitor to pay over to PLAN said monies as provided herein or to comply with any of the provisions of this Paragraph 2.2 shall, upon written notice to Solicitor, effect an immediate termination of this Agreement. Furthermore, upon termination of this Agreement in accordance with this Paragraph 2.2, PLAN shall have the right to offset said monies from any compensation due Solicitor. Nothing herein shall waive or limit any rights that PLAN may have at law or in equity to said monies.

Specifically, with respect to Section 1300.67.12, Solicitor agrees as follows:

2.2.1. All funds received by Solicitor for the account of PLAN, if any, shall at all times be segregated from the assets of Solicitor and shall be promptly deposited to a trust account in a state or federal bank authorized to do business in this state and insured by an appropriate federal insuring agency. For the purposes of this section 2.2.1, "promptly deposited" means deposited no later than the business day following receipt by Solicitor.

2.2.2. All funds received by Solicitor for the account of PLAN, if any, shall be transmitted to PLAN, net of actual commissions earned hereunder within five (5) business days after such funds are received by Solicitor.

2.2.3. Solicitor shall comply and shall cause its principal persons and employees to comply with all applicable provisions of the Act (as that term is defined in section 6.1 of this Agreement) and the regulations promulgated thereunder.

2.2.4. Solicitor shall promptly notify PLAN of the institution of any disciplinary proceedings against it or against any of its principal persons or employees relating to any license issued to any such person by the California Insurance Commissioner.

3. SOLICITOR'S COMPENSATION

3.1.1. Compensation. As payment for the performance of services pursuant to this Agreement, PLAN shall pay Solicitor commissions according to the Commission Schedule and any additional conditions set forth on Exhibit A, attached hereto and incorporated herein by reference. Solicitor shall be eligible to receive such commissions only so long as this Agreement remains in full force and effect.

3.1.1.1. PLAN may change the Commission Schedule(s) at any time with prior notification to Solicitor. Any changes made by PLAN will apply only to those Group Service Agreements issued after the effective date of any new or revised Commission Schedule(s).

3.2. Return Commissions. Solicitor shall refund, on a pro rata basis, to PLAN, within thirty (30) days of notification by PLAN, commissions on canceled Group Products and reductions in premiums at the same rate at which such commissions were originally paid by PLAN. Solicitor shall return to PLAN any commission paid in error within ten (10) days of receiving notice of such error.

3.3. Compensation Paid Solely by PLAN. Solicitor shall look solely to PLAN for payment of compensation under this Agreement and shall not look to any other source to obtain any compensation or reimbursement for products marketed under this Agreement.

3.4. Negotiated Commissions. In the case of a submission presenting unusual circumstances or a submission not covered by PLAN's then current schedule of commission rates, PLAN and Solicitor shall negotiate a mutually agreed rate of commission to be applied to the premium payable thereon. Whether a submission presents unusual circumstances or is not covered by PLAN's then-current schedule of commission rates, thereby justifying negotiation of a rate of commission other than as may be provided in PLAN's current schedule of commission rates shall be determined solely by PLAN.

3.5. Limitations Upon PLAN's Obligation to Pay Commissions.

3.5.1. Reimbursement of Expenses. Agent shall have no claim for commissions except as herein provided and shall not be entitled to reimbursement for any expenses unless the incurring of such expenses was authorized in writing in advance by the Company.

3.5.2. Legal Prohibitions. Solicitor acknowledges and agrees that PLAN shall not be obligated to pay Solicitor any commissions for services performed hereunder or otherwise if the payment of such commissions would violate applicable statutory provisions, regulations, or rulings which prohibit the payment of commissions under certain circumstances.

3.5.3. Conversion Privileges. No commissions shall be payable on any health care contract issued under any conversion privilege applicable to a Group Product issued by PLAN.

3.5.4. Treatment of Monies owing to PLAN. Any indebtedness owing by Solicitor to PLAN which arises at any time constitutes a first lien upon any commissions due or to become due Solicitor hereunder, and PLAN, at its sole discretion, shall have the right to offset

from any compensation due Solicitor those sums which are owing by Solicitor to PLAN. Should any such lien on Solicitor's compensation create a deficit on Solicitor's earning statements, the deficit will be repaid to PLAN upon demand. Nothing herein shall waive or limit any rights that PLAN may have at law or in equity to said monies.

4. TERMINATION

4.1. Termination. This Agreement may be terminated at any time, with or without cause, by either party upon thirty (30) days written notice mailed or delivered by the canceling party to the other party stating when the cancellation shall be effective; provided, that cancellation shall not be effective to liquidate or compromise rights and liabilities of the parties that accrued prior to the effective date of cancellation.

4.2. Loss of Licensure. This Agreement automatically shall be terminated if Solicitor ceases to be licensed in the State of California to perform the services required under this Agreement, effective from and after the date on which the applicable license is lost or forfeited.

4.3. Effect of Termination. No further commissions shall be due or owing by PLAN to Solicitor after the effective date of this Agreement's termination, provided all commissions due or owed Solicitor for services rendered prior to termination shall be paid by PLAN in full upon termination. After the termination of this Agreement, PLAN, at its sole discretion, shall have the right to make agreements with any subsequently named brokers or agents as to commissions, to the partial or complete exclusion of Solicitor, with respect to any Group Products written or serviced hereunder.

5. RELATIONSHIP OF PARTIES

5.1. Independent Contractor. It is the mutual intention of the parties hereto that Solicitor and Solicitor's Agents are independent contractors for all purposes and are not employees of PLAN for any purpose stated in this Agreement. Solicitor reserves full control of its activities and those of any Solicitor's Agents, with the right to exercise independent judgment as to the time, place, or manner of carrying out the provisions of this Agreement.

5.2. Unauthorized Actions by Solicitor. PLAN shall not be bound by or liable for any actions taken or representations made beyond the scope or in violation of this Agreement. However, the actions of any Solicitor's Agent shall bind Solicitor under this Agreement.

5.3. Indemnity. Solicitor and PLAN shall mutually defend, indemnify, and hold each other harmless from and against any and all injuries, claims, demands, liabilities, suits at law or in equity, costs or expenses (including court costs and reasonable attorneys' fees) or judgments of any nature whatsoever, which either party or its corporate members, directors, officers, employees, or representatives may sustain or incur by reason of any act or omission of the breaching party or the party's agents arising out of or related to this Agreement.

5.4. Insurance. Solicitor shall, at its sole cost and expense, procure and maintain such policies of professional liability, fidelity, and other insurance, acceptable to PLAN, as shall be reasonably necessary to insure Solicitor and its employees, agents, shareholders, directors,

and officers against any claim or claims for damages arising out of Solicitor's provision of its professional services. Such insurance shall be procured from an insurer(s) acceptable to PLAN. Solicitor's professional liability insurance (unless the parties shall otherwise mutually agree in writing) shall provide for limits of not less than one million dollars (\$1,000,000) per occurrence, three million dollars (\$3,000,000) aggregate. Solicitor's fidelity insurance shall (unless the parties shall otherwise mutually agree in writing) provide for loss limits of not less than two hundred fifty thousand dollars (\$250,000) per single loss. Solicitor shall, upon written request, provide PLAN with certificates of insurance demonstrating the insurance coverage required under this Section. Further, Solicitor shall provide PLAN with not less than thirty (30) days written notice of any cancellation, reduction, or other material change in the amount or scope of any coverage required under this Section.

5.5. Proprietary and Confidential Information. Solicitor agrees that PLAN's materials and plans regarding marketing and other materials and information designated as proprietary by PLAN contain information which is and shall remain confidential and proprietary to PLAN. Solicitor agrees that such proprietary and confidential information shall only be used by Solicitor or any Solicitor's Agent in connection with the performance of this Agreement and only in the manner provided by this Agreement. Upon termination of this Agreement, Solicitor immediately shall return all proprietary and confidential information to PLAN.

6. GENERAL PROVISIONS

6.1. PLAN Offerings. PLAN retains the right to withdraw or change any Group Service Agreement or Product referenced in this Agreement, and to change premium rates for any Product.

6.2. Federal and State Law and Regulation. This Agreement and the performance thereof is subject to the requirements of the Knox Keene Health Care Service Plan Act of 1975, as amended from time to time (the "Act"), and the regulations promulgated thereunder by the Department of Managed Health Care of the State of California. All provisions required by such laws and regulations to be in this Agreement shall bind the parties to this Agreement whether or not provided herein.

6.3. Arbitration.

6.3.1. Binding Arbitration. Any dispute, controversy or claim between PLAN and Solicitor, or between Solicitor and any other individual or entity who is subject to an arbitration agreement with PLAN, including without limitation, a covered enrollee or participating provider, arising from or in connection with this Agreement, or any legal duty incident hereto, whether stated in tort, contract or otherwise, shall be resolved by binding arbitration at the written request of either party, and judgment on the award so rendered may be entered in any court having jurisdiction thereof.

6.3.2. Waiver of Jury Trial. The parties specifically agree to use this arbitration procedure in place of any rights they otherwise would have to submit any controversy or dispute to a court or jury. The parties also expressly waive any right to recover punitive damages in connection with any arbitrable dispute.

6.3.3. Provisional Remedies. Notwithstanding the requirement that all disputes be decided by binding arbitration, any party may seek provisional remedies from a court of proper jurisdiction, and each party shall have full rights of discovery, all as provided in Sections 1281 *et seq.* of the California Code of Civil Procedure.

6.4. Assignment. Neither this Agreement nor any of the rights, interests, or benefits arising hereunder shall be assigned, transferred, or delegated either in whole or in part by Solicitor without the prior written consent of PLAN.

6.5. Entire Agreement. This Agreement contains the entire understanding of Solicitor and PLAN with respect to the subject matter hereof and it incorporates all of the covenants, conditions, representations, promises, and agreements exchanged by the parties hereto with respect to such matter. This Agreement supersedes any and all prior or contemporaneous negotiations, agreements, or communications, whether written or oral, between Solicitor and PLAN with respect to the subject matter of this Agreement.

6.6. Severability. If any provision or provisions of this Agreement is rendered by a court or governmental agency of competent jurisdiction to be invalid, illegal, or unenforceable, the remainder of this Agreement shall not be affected thereby, but shall remain in full force and effect.

6.7. Attorneys' Fees and Costs. If any action at law or in equity, or any arbitration or mediation is brought to enforce or interpret the terms of this Agreement or any obligation owing hereunder, the prevailing party shall be entitled to reasonable attorneys' fees and costs and expenses of suit, including, without limitation, expert and accountant fees.

6.8. Amendment/Waiver. This Agreement shall not be amended, or any condition hereof waived, except by a written instrument signed by both parties hereto, and then any such amendment or waiver shall be effective only in the specific instance and for the specific purpose for which it is given.

6.9. Governing Law. This Agreement shall be governed by, construed in accordance with, and enforced under the laws of the State of California.

6.10. Notice. Any notice provided for in this Agreement will be given by personal delivery to Solicitor or any officer of PLAN, or by mailing notice by U.S. Mail, postage paid to the last known address of the other party.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

PLAN

SOLICITOR

By: _____

By: _____

Business Address: _____

Business Address: _____

SSN or TIN: _____

Date: _____

Date: _____

Exhibit A

Compensation and Additional Conditions

As compensation under this Agreement, PLAN will pay Solicitor a commission of 7% of first year and renewal premiums for all PLAN enrollees for whom Solicitor is the broker of record.

Request for Taxpayer Identification Number and Certification

Give form to the
requester. Do not
send to the IRS.

Print or type See Specific Instructions on page 2	Name (as shown on your income tax return)	
	Business name, if different from above	
	Check appropriate box: <input type="checkbox"/> Individual/ Sole proprietor <input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Other ▶	<input type="checkbox"/> Exempt from backup withholding
	Address (number, street, and apt. or suite no.)	Requester's name and address (optional)
	City, state, and ZIP code	
List account number(s) here (optional)		

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number								
			+			+		
or								
Employer identification number								
			+					

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. person (including a U.S. resident alien).

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (See the instructions on page 4.)

Sign Here	Signature of U.S. person ▶	Date ▶

Purpose of Form

A person who is required to file an information return with the IRS, must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

U.S. person. Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee.

In 3 above, if applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

Note. If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

For federal tax purposes, you are considered a person if you are:

- An individual who is a citizen or resident of the United States,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States, or
- Any estate (other than a foreign estate) or trust. See Regulations sections 301.7701-6(a) and 7(a) for additional information.

Special rules for partnerships. Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

- The U.S. grantor or other owner of a grantor trust and not the trust, and
- The U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

Foreign person. If you are a foreign person, do not use Form W-9. Instead, use the appropriate Form W-8 (see Publication 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

Nonresident alien who becomes a resident alien.

Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the recipient has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items:

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

Example. Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity not subject to backup withholding, give the requester the appropriate completed Form W-8.

What is backup withholding? Persons making certain payments to you must under certain conditions withhold and pay to the IRS 28% of such payments (after December 31, 2002). This is called "backup withholding." Payments that may be subject to backup withholding include interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the Part II instructions on page 4 for details),

3. The IRS tells the requester that you furnished an incorrect TIN,

4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or

5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See the instructions below and the separate Instructions for the Requester of Form W-9.

Also see *Special rules regarding partnerships* on page 1.

Penalties

Failure to furnish TIN. If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil penalty for false information with respect to withholding. If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal penalty for falsifying information. Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs. If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name

If you are an individual, you must generally enter the name shown on your income tax return. However, if you have changed your last name, for instance, due to marriage without informing the Social Security Administration of the name change, enter your first name, the last name shown on your social security card, and your new last name.

If the account is in joint names, list first, and then circle, the name of the person or entity whose number you entered in Part I of the form.

Sole proprietor. Enter your individual name as shown on your income tax return on the "Name" line. You may enter your business, trade, or "doing business as (DBA)" name on the "Business name" line.

Limited liability company (LLC). If you are a single-member LLC (including a foreign LLC with a domestic owner) that is disregarded as an entity separate from its owner under Treasury regulations section 301.7701-3, enter the owner's name on the "Name" line. Enter the LLC's name on the "Business name" line. Check the appropriate box for your filing status (sole proprietor, corporation, etc.), then check the box for "Other" and enter "LLC" in the space provided.

Other entities. Enter your business name as shown on required federal tax documents on the "Name" line. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on the "Business name" line.

Note. You are requested to check the appropriate box for your status (individual/sole proprietor, corporation, etc.).

Exempt From Backup Withholding

If you are exempt, enter your name as described above and check the appropriate box for your status, then check the "Exempt from backup withholding" box in the line following the business name, sign and date the form.

Generally, individuals (including sole proprietors) are not exempt from backup withholding. Corporations are exempt from backup withholding for certain payments, such as interest and dividends.

Note. If you are exempt from backup withholding, you should still complete this form to avoid possible erroneous backup withholding.

Exempt payees. Backup withholding is not required on any payments made to the following payees:

1. An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2),
 2. The United States or any of its agencies or instrumentalities,
 3. A state, the District of Columbia, a possession of the United States, or any of their political subdivisions or instrumentalities,
 4. A foreign government or any of its political subdivisions, agencies, or instrumentalities, or
 5. An international organization or any of its agencies or instrumentalities.
- Other payees that may be exempt from backup withholding include:
6. A corporation,
 7. A foreign central bank of issue,
 8. A dealer in securities or commodities required to register in the United States, the District of Columbia, or a possession of the United States,
 9. A futures commission merchant registered with the Commodity Futures Trading Commission,
 10. A real estate investment trust,
 11. An entity registered at all times during the tax year under the Investment Company Act of 1940,
 12. A common trust fund operated by a bank under section 584(a),
 13. A financial institution,
 14. A middleman known in the investment community as a nominee or custodian, or
 15. A trust exempt from tax under section 664 or described in section 4947.

The chart below shows types of payments that may be exempt from backup withholding. The chart applies to the exempt recipients listed above, 1 through 15.

IF the payment is for . . .	THEN the payment is exempt for . . .
Interest and dividend payments	All exempt recipients except for 9
Broker transactions	Exempt recipients 1 through 13. Also, a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker
Barter exchange transactions and patronage dividends	Exempt recipients 1 through 5
Payments over \$600 required to be reported and direct sales over \$5,000 ¹	Generally, exempt recipients 1 through 7 ²

¹ See Form 1099-MISC, Miscellaneous Income, and its instructions.

² However, the following payments made to a corporation (including gross proceeds paid to an attorney under section 6045(f), even if the attorney is a corporation) and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees; and payments for services paid by a federal executive agency.

Part I. Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN. However, the IRS prefers that you use your SSN.

If you are a single-owner LLC that is disregarded as an entity separate from its owner (see *Limited liability company (LLC)* on page 2), enter your SSN (or EIN, if you have one). If the LLC is a corporation, partnership, etc., enter the entity's EIN.

Note. See the chart on page 4 for further clarification of name and TIN combinations.

How to get a TIN. If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local Social Security Administration office or get this form online at www.socialsecurity.gov. You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at www.irs.gov/businesses and clicking on Employer ID Numbers under Related Topics. You can get Forms W-7 and SS-4 from the IRS by visiting www.irs.gov or by calling 1-800-TAX-FORM (1-800-829-3676).

If you are asked to complete Form W-9 but do not have a TIN, write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

Note. Writing "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

Caution: A disregarded domestic entity that has a foreign owner must use the appropriate Form W-8.

Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if items 1, 4, and 5 below indicate otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). Exempt recipients, see *Exempt From Backup Withholding* on page 2.

Signature requirements. Complete the certification as indicated in 1 through 5 below.

1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983. You must give your correct TIN, but you do not have to sign the certification.

2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983. You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. Real estate transactions. You must sign the certification. You may cross out item 2 of the certification.

4. Other payments. You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions. You must give your correct TIN, but you do not have to sign the certification.

What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account ¹
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
5. Sole proprietorship or single-owner LLC	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship or single-owner LLC	The owner ³
7. A valid trust, estate, or pension trust	Legal entity ⁴
8. Corporate or LLC electing corporate status on Form 8832	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership or multi-member LLC	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

² Circle the minor's name and furnish the minor's SSN.

³ You must show your individual name and you may also enter your business or "DBA" name on the second name line. You may use either your SSN or EIN (if you have one). If you are a sole proprietor, IRS encourages you to use your SSN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules regarding partnerships* on page 1.

Note. If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA, or Archer MSA or HSA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. The IRS may also provide this information to the Department of Justice for civil and criminal litigation, and to cities, states, the District of Columbia, and U.S. possessions to carry out their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 28% of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to a payer. Certain penalties may also apply.