

Getting Appointed with CCHP

Congratulations on taking the first step to being appointed with CCHP. Here is a helpful checklist to help make the appointment process easy and help get you started with your first enrollment! To complete the process, follow these simple steps:

1) Accept the terms of the attached Broker Agreement and Business Associate Agreement

- Sign page 13 of the Broker Agreement
- Sign page 10 of the Business Associate Agreement

2) Send a Copy of your License

- Provide a copy of your current California Life Agent License (must include both Life-only and Accident and Health).
- Agent license must be in “good standing” with CA Department of Insurance (not expiring within 30 days) and without restrictions or pending hearing or disciplinary action.

3) Send a Copy of your E&O Policy and IRS W-9 Form

- Provide a copy of your Errors and Omissions certificate with a minimum specific amount of \$1,000,000 and \$1,000,000 aggregate amounts.
- Policy must be valid at time of submission and agent applicant must be named in the certificate.
- If assistance is needed to acquire or update your E&O policy, please contact CCHP Broker Services Department at (628) 228-3283.
- Complete and sign the attached W9 form.

4) Once completed, return your forms:

Mail, Fax or E-mail:

**Chinese Community Health Plan
Broker Services – New Appointments Dept.
445 Grant Avenue, Suite 700
San Francisco, CA 94108**

**Fax: 415-955-8819 Toll Free Fax: 1-888-551-2247
Email: brokers@cchphealthplan.com**



Broker Application

Welcome to CCHP: To complete the Broker Appointment Application, complete and sign the following.
BROKER: Please keep a copy for your records prior to sending to CCHP for processing. Please print clearly.

☐ Individual / Solo Proprietor ☐ Corporation ☐ Partnership ☐ Others _____

Company Name (if applicable): _____ Tax ID or SSN#: _____

Broker Name: _____ Title: _____

Business Tel: _____ Cell: _____

Email: _____ Fax: _____

CA Driver License Number: _____ Date of Birth: _____

CA Agent License Number: _____ Expiration Date: _____

Company License Number (if applicable): _____ Expiration Date: _____

Covered CA Certification ID#: _____ Expiration Date: _____

E & O Carrier: _____

Policy Number: _____ Expiration Date: _____

Additional Contact Name: _____ Title: _____

Email: _____ Telephone: _____

Company Address: _____

Payment Address: _____

W9 (Tax Return) Address: _____

Commission Check should be made payable to: _____

I certify under the penalty of perjury of California law that the foregoing statements are true and correct.

Signature

Please Print Name

Date

CCHP SECTION – ADMINISTRATIVE USE ONLY

E&O Provider:		Validated By:	
CCHP Processor/Supervisor:		Date Processed:	

CHINESE COMMUNITY HEALTH PLAN AGENT/BROKER AGREEMENT

This Agent/Broker Agreement (this "**Agreement**") is entered into and effective as of the latest date set forth on the signature page of this Agreement ("**Effective Date**") by and between Chinese Community Health Plan, a California corporation ("**CCHP**"), and the broker/agent specified on the signature page of this Agreement ("**Broker**"), with reference to the following facts:

WHEREAS, CCHP is a California corporation licensed to do business in the state of California as a health care service plan under the Knox-Keene Care Service Plan Act of 1975, commencing with Section 1340 of the California Health and Safety Code.

WHEREAS CCHP is a Certified Qualified Health Plan Issuer (as defined at 10 CCR § 6410) and is contracted with Covered California to provide health insurance coverage to qualified individual and employers who purchase health insurance coverage through Covered California.

WHEREAS, Broker is duly licensed with the California Department of Insurance as an insurance broker or insurance agent, in all ways necessary to perform the services contemplated under this Agreement. (For the purposes of this Agreement, Broker and Broker's principles, authorized representatives, partners, investors, employees, staff, and any other persons who solicits or otherwise assists Broker in soliciting the sale of health care service plans shall simply be referred to as "**Broker**".)

WHEREAS, CCHP desires to secure the services of Broker to facilitate the sale of health care service plans and Broker desires to provide such services subject to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement, the parties hereto agree as follows:

Article 1 - Broker/Agent Appointment

1.1 Appointment. CCHP hereby grants to Broker a non-exclusive, revocable appointment to solicit and secure new applications and renewals for contracts ("**Contracts**") for health care services plans offered or administered by CCHP ("**Products**"). "**Products**" include all health care service plans of CCHP, together with all supplements, ancillary benefits, riders, and other health benefit plans offered with such health care service plans available to eligible individuals, families, and employers. Products may be sold in the commercial market or through a private or public exchange. Appointment under this Agreement shall not limit or prohibit CCHP from granting similar appointments to other brokers and agents, nor shall it limit or prohibit Broker from accepting appointments from other companies.

1.2 **CCHP Services.** CCHP's own sales force may also solicit and secure new applications and renewals from: prospective clients, applicants, individuals, families, and employer groups who are eligible and apply for Products (collectively "**Applicants**"); and clients, individuals, families, or subscribers who are enrolled in a Product and meet all the eligibility requirements for membership in the Product (collectively "**Members**") as well as employer groups and its enrolled employees ("**Groups**").

1.3 **Application.** Broker shall assure that its principles, authorized representatives, partners, investors, employees, staff, and any other persons who solicits or otherwise assists Broker in soliciting Contracts: (a) comply with the terms of this Agreement; (b) are licensed with all applicable state, federal and other governmental agencies; and (c) will, upon request, provide CCHP with appropriate documentation to verify compliance with state and federal law and this Agreement.

1.4 **Adverse Effect.** Broker shall not conduct its business in such a manner as to adversely affect the business, good standing, and/or reputation of CCHP.

Article 2 - Rights, Responsibilities, and Obligations of Broker

2.1 **General.** Broker shall diligently solicit and use reasonable efforts to introduce CCHP to Applicants. Broker shall promote and publicize Products, procure applications to purchase Products, provide reasonable ongoing services to Members and Groups procured by Broker, and assist CCHP in similar activities. Broker shall not discriminate against CCHP when soliciting or offering other products, plans, or coverage of a similar nature.

2.2 **License.** Broker warrants and represents that Broker, and its principles, authorized representatives, partners, investors, employees, staff, and any other persons who solicits or otherwise assists Broker in soliciting Contracts: (a) is duly licensed by the California Department of Insurance as an insurance broker or insurance agent; (b) has never had an issued license revoked or suspended; (c) has never been convicted of any crime involving moral turpitude or dishonesty; and (d) is certified by Covered California to represent and sell products through Covered California. For the duration of this Agreement, Broker shall keep all appropriate and necessary federal, state or local licenses, certifications and other requirements current and in good standing in order to be able to effectuate the purpose of this Agreement. Broker shall provide evidence of such license(s) upon execution of this Agreement, after each renewal thereafter, and from time to time as CCHP may require. Broker shall notify CCHP within five (5) business days of any terminated, suspended, or expired license.

2.3 **Laws, Rules and Regulations.** The parties shall comply with all applicable federal, state, and local laws, as well as the rules and regulations of the appropriate regulatory agencies. Broker shall file all reports required by state and federal law and pay all taxes, contributions and other sums which may be levied or assessed upon or in connection with the Compensation paid to Broker by CCHP. Broker shall notify CCHP in writing within thirty (30)

days of each and every report of any accreditation organization or any governmental agency which report contains a citation of Broker for failure to meet any requirement of state and federal law or the standard of an accreditation organization.

2.4 Policies and Procedures. Broker shall provide all services hereunder in compliance with CCHP's policies and procedures.

2.5 Duty of Broker. Broker acknowledges that under California Health and Safety Code §1389.8, Broker has the duty to assist Applicants in providing answers to health questions accurately and completely. Broker must attest on the written application to both of the following: (a) that to the best of his/her knowledge, the information on the application is complete and accurate; and (b) that he/she explained to the Applicant, in easy-to-understand language, the risk to the Applicant of providing inaccurate information and that the Applicant understood the explanation.

2.6 Broker Expertise. Broker agrees to maintain sufficient knowledge of CCHP products and policies, including but limited to CCHP Code of Conduct, underwriting and application guidelines, and all pertinent laws, rules and regulations described in this Agreement.

2.7 Limitations. Broker shall not perform any of the following acts:

- a. Incur any indebtedness or liability on behalf of CCHP or withhold any monies or property of CCHP;
- b. Change any premium rates quoted by CCHP;
- c. Waive any forfeiture or extend the time for making payment of any premiums;
- d. State or imply that Broker is owned or controlled by CCHP;
- e. Pay, allow, or offer to pay or allow as an inducement to any person or entity, any rebate of a premium or any other consideration not specified in the Contract;
- f. Induce, or endeavor to induce, any Member or Group to discontinue payment of premium or to relinquish any other Product or program (except if replaced by another CCHP Product);
- g. Waive, modify, alter, change or amend any contracts, terms, rates, proposals, advertisements, conditions, applications, evidence of coverage, items of supplemental sales literature, or limitations of CCHP coverage or Products;
- h. Publish or cause to be published, circulate or cause to be circulated, or utilize any advertising material other than that which is furnished to Broker by CCHP or approved by CCHP.

2.8 **Advertising**. Broker shall obtain consent from CCHP prior to using CCHP's name, logos, domain names, symbols, product names, service marks, or any other name or mark in any promotional, marketing, or advertising materials. Broker shall not use, or permit the use of any advertising or solicitation which is untrue or misleading, or any evidence of coverage which is deceptive.

2.9 **Enrollment Minimum**. Broker shall maintain a book of business of at least ten (10) Active Members per year, based on CCHP records as of December 31 of each calendar year. "Active Members" are defined by the total cumulative lives or persons enrolled in group or individual policies.

2.10 **Receipt of Funds**. Broker shall not accept any funds, premiums, or monies from Applicants, Members, or Groups on behalf of CCHP, with the exception that Broker may receive funds in the form of checks payable to CCHP and submit the check to CCHP no later than the close of business of the next business day.

Article 3 - Rights, Responsibilities, and Obligations of CCHP

3.1 **Administration**. CCHP shall perform the functions reasonably necessary for the administration and operation of the Products.

3.2 **Compensation**. CCHP shall pay Compensation based on the total adjusted paid premiums derived from Members or Groups enrollment procured by Broker, as further described in Article 4 (Compensation).

3.3 **Products**. CCHP retains, in its sole discretion, the right to withdraw the sale of any Product and to modify any Product at any time.

3.4 **Eligibility**. Eligibility of Applicants shall be determined by CCHP in its sole discretion. CCHP reserves the right to reject or conditionally accept applications submitted by Broker, to refuse to quote on applications solicited by Broker, and to cancel any Contract when appropriate.

Article 4 - Compensation

4.1 **General**. CCHP shall pay commission to Broker in accordance with this Agreement and the rates and terms set forth in the current Schedule of Commission ("Compensation"). Compensation will be computed based on the premium revenues actually paid to, received, and accepted by CCHP from Members and Groups procured by Broker during the term of this Agreement. Compensation will not be paid if a Member or Group fails to pay their premium.

4.2 **Payment**. CCHP shall pay Compensation the calendar month following the month of receipt by CCHP of the respective Member's or Group's charges or premiums on which

Compensation is payable. If the Compensation amount during a calendar month is below one hundred (\$100.00) dollars, payment will be issued on a quarterly basis. CCHP may place Broker's Compensation on hold in the event Broker is not in compliance with the terms of this Agreement or state and federal laws. CCHP reserves the right to offset any Compensation to which Broker is entitled to by the amount of any funds owed to CCHP. CCHP is under no obligation to reimburse Broker for costs, fees, or expenses unless expressly approved in advance by CCHP, in writing.

4.3 Broker of Record. Compensation shall only be paid to brokers and/or agents who are appointed or designated by Applicant or Group to serve and act as their representative, and is legally eligible to do so ("**Broker of Record**"). Broker shall provide a Broker of Record letter or other document evidencing such within thirty (30) days after the Effective Date, after each renewal, and from time to time as CCHP may require. Compensation will not be paid to Broker for accounts which Broker is not, ceases to be, or cannot provide documentation evidencing Broker as Group's Broker of Record.

4.4 Change of Broker of Record. Compensation will not be paid to Broker on any premiums received for Contracts after the Group for the respective Contract notifies CCHP that Broker is no longer servicing their Contract as their Broker of Record. CCHP will honor Group's request to change Broker of Record on the first day of the month following CCHP's receipt of Group's request, unless another future date is specified by Group. Change requests should be made in writing using either the CCHP "Broker of Record Change" form or by providing CCHP with a written request on the Contract holder's letterhead signed by the Contract holder's authorized representative, which identifies the name, address, and tax identification number of the new Broker of Record.

4.5 Renewal Compensation for Individual Family Plans. Notwithstanding Section 4.4 (Change of Broker of Record), for Individual Family Plans ("IFP") Contracts, if CCHP receives a written request to change the Broker of Record during the first year of the IFP Contract, CCHP will continue to pay the first year of Compensation to the Broker who procured the IFP Contract. Thereafter CCHP will pay the Compensation to the new specified Broker of Record, who will be the IFP Contract holder's designated Broker of Record with all the other rights and obligations thereunder.

4.6 Compensation Assignment Rights. Broker may assign its right to Compensation under this Agreement to another CCHP appointed Broker ("**Assignee**") subject to CCHP's prior written consent, which consent will not be unreasonably withheld. Broker shall provide at least thirty (30) days prior written notice of the assignment. CCHP will pay Assignee the Compensation that would have been paid to Broker absent the assignment of the Contract. Assignee will be the Contract holder's producer of record with all the other rights and obligations thereunder.

4.7 House Accounts. In the event Broker is appointed Broker of Record by a House Account (i.e., a group for which CCHP currently pays no compensation or commission to any

agent or broker), Broker shall not be eligible for Compensation until the next renewal date. If Broker takes over a House Account at the time of renewal, then Broker will be eligible for Compensation immediately in accordance with this Article 4 (Compensation). Broker must provide thirty (30) days notice to CCHP prior to takeover.

4.8 Status Change. Compensation will not be paid for any coverage procured by Broker that is: (a) issued as a result of a Member or Group switching, converting, or changing status from CCHP group coverage to individual or individual to group coverage; (b) issued as a result of Member switching, converting, or changing status from a depended to a subscriber; or (c) issued as a result of a Member switching, converting, or changing status from one Product to another Product. This Section 4.8 (Status Changes) applies even if Broker aided in completing such transaction.

4.9 Death. In the event of the death of Broker, CCHP will pay his/her estate any accumulated Compensation which is due at the time of death, less any debt Broker owed to CCHP. Compensation will not be paid on premiums received after Broker's death unless Broker's beneficiary is licensed by the California Department of Insurance as an insurance broker or insurance agent, enters into a Broker/Agent agreement with CCHP, and is appointed by CCHP as a broker.

4.10 Compensation Upon Retirement. Upon retirement, Broker shall give CCHP written notice of Broker's retirement date. Broker may continue to receive Compensation after retirement as long as this Agreement is effective and Broker continues to comply with its obligations under this Agreement including without limitation Section 2.2 (Licenses) and the insurance requirements of Article 7 (Insurance and Indemnity).

4.11 Loss of Compensation. CCHP may terminate this Agreement and any payable Compensation thereunder effective upon notice if any of the following events occur:

- a. Broker fails to immediately remit to CCHP any funds or premiums received by Broker on CCHP's behalf;
- b. Broker's license expires, lapses, or is terminated, and/or the California Department of Insurance takes any disciplinary action against Broker's license;
- c. Broker commits an act of fraud, dishonesty, or moral turpitude, or breach any fiduciary duty; or
- d. Broker commits any actions that would be considered a material breach of this Agreement.

4.12 Modification to Schedule. CCHP may modify the Schedule of Commission as it deems appropriate upon thirty (30) days notice. Modifications and amendments to the Schedule of

Commission shall become effective the date set forth in any such modification, amendment, or endorsement.

4.13 Outstanding Accounts. In the event any premium paid to CCHP is adjusted due to retroactive or pro rata payments, Broker's Compensation shall likewise be adjusted. If any premium should be refunded to Member or Group for any reason or cause, either before or after termination of this Agreement, Broker shall repay to CCHP, upon demand, all Compensation paid on the refunded premium.

Article 5 - Confidentiality

5.1 Each party shall keep confidential and shall not disclose any confidential or proprietary information of the other party either during the term of this Agreement or after the date of termination of this Agreement, regardless of how the information was obtained, to any third party, except as required by state and federal law, or otherwise agreed upon in writing by the parties. The parties shall only use such information to the extent permitted and necessary to perform its duties under this Agreement.

5.2 Broker shall keep confidential and shall not disclose: (a) any information containing the names, addresses and telephone numbers of Applicants, Members, or Groups, including eligibility lists; (b) lists or documents which include the names, addresses, and telephone numbers of employers, employees of such employers responsible for health benefits and the officers and directors of such employers; (c) CCHP's policies and procedures and any of CCHP's member, employer, and administrative service manuals and all forms related thereto; (d) CCHP underwriting and rating information and any other information utilized by CCHP for determining eligibility or rates for Products; (e) CCHP's rate setting policies, formulas or procedures; and (f) any other information compiled or created by CCHP which is proprietary to CCHP and which CCHP identifies in writing to Broker.

5.3 Upon the effective date of termination of this Agreement, the parties shall provide and return to the other party the confidential information in its possession in the manner specified by the other party. In the event that the confidential information is in an electronic format, the parties shall make best effort to destroy such information.

5.4 Each party shall give prompt notice to the other party of any unauthorized use or disclosure of confidential information and shall assist in remedying each unauthorized use or disclosure. The assistance or acceptance of assistance by either party does not constitute a waiver of any breach.

5.5 The failure to identify information as confidential information is not an acknowledgement or admission that the information is not confidential and is not a waiver by either party of any of its right with respect to the information.

5.6 The parties acknowledge and agree that with respect to a breach of this Article 5 (Confidential Information) by a party or any of its representatives: (a) an award of money damages is insufficient or impractical to calculate; and (b) any breach causes irreparable harm. Because of this, in the event of any breach or threatened breach of this Article 5 (Confidential Information) by a party or any of its representatives, the other party shall be entitled to equitable relief, including without limitation, injunctive relief and specific performance.

Article 6 - Term and Termination

6.1 **Term.** The term of this Agreement commences on the Effective date and continues until this Agreement is appropriately terminated by either party as provided herein.

6.2 **Termination Without Cause.** Either party may terminate this Agreement without cause by giving sixty (60) days notice to the other party. If this Agreement is terminated by CCHP under this Section 6.2 (Termination Without Cause), CCHP shall continue to pay Broker Compensation for Members and Groups enrolled by Broker prior to termination of this Agreement so long as: (a) Member or Group has an in-force Contract with CCHP; (b) Broker is the Group's Broker of Record and continues to service the Group; and (c) Broker is legally eligible to receive Compensation, as determined by CCHP.

6.3 **Termination with Cause.** Either party may terminate this Agreement at any time upon thirty (30) days prior written notice if the other party commits a Material breach of this Agreement that remains uncured after thirty (30) days written notice specifying the nature of the breach. "Material" shall have the meaning set forth in California Health and Safety Code §1375.7(g)(2), which at the time of execution of this Agreement states that material is a provision in a contract to which a reasonable person would attach importance in determining the action to be taken upon the provision.

6.4 **Force Majeure.** Either party may terminate this Agreement upon the occurrence of any event described in Section 8.19 (Force Majeure) that both materially interferes with the performance of either party hereto and continues for a period of thirty (30) days or longer.

6.5 **Sale or Transfer.** CCHP may terminate this Agreement as of the effective date of the sale, transfer, or assignment of Broker's business or any interest therein or its consolidation with a successor firm.

6.6 **Revocation of License.** CCHP may terminate this Agreement immediately upon the revocation, suspension or restriction of any license, certificate, accreditation, or other authority required to be maintained by Broker in order to perform the services under this Agreement.

6.7 **Fraud.** CCHP may terminate this Agreement if Broker engages in or knowingly assists another to commit fraudulent or dishonest activities in connection with the solicitation,

enrollment, or renewal of any Applicant, Member, or Group. The termination shall be effective as of the date on which Broker engaged in or assisted with such activity, without regard to when CCHP learns of such activity or the date CCHP specifies in a notice to Broker regarding the violation of this Section 6.7 (Fraud).

6.8 Effect of Termination. Upon termination of this Agreement: (a) Broker will no longer be able to sell Products; and (b) CCHP will no longer recognize Broker as the Broker of Record for any Groups. Compensation secured by Broker shall continue to be paid to Broker up to the date of termination, except as specified in section 6.2 (Termination without Cause). Upon termination, Broker shall immediately return all Confidential Information, rate manuals, administrative manuals, policyholder records, application forms, sales materials and all other supplies and materials connected with, authorized or printed by and belonging to CCHP. Broker shall dispose of personal health information according to the Business Associate Agreement.

Article 7 - Insurance and Indemnity

7.1 Insurance. Broker shall maintain comprehensive public liability insurance, including errors and omissions insurance, with a liability insurance carrier admitted in California, of at least \$1,000,000 per claim and \$1,000,000 aggregate coverage. Broker shall provide to CCHP written proof of such coverage upon execution of this Agreement and from time to time as requested by CCHP. Broker shall notify CCHP within five (5) business days of any change in the amounts, levels or types of insurance purchased or the loss of any coverage required under this Section 7.1 (Insurance).

7.2 Indemnification. Each party shall indemnify, defend and hold harmless the other party, and all of the officers, trustees, agents and employees of the foregoing, from and against any and all third party demands, claims, actions, losses, costs, liabilities, damages or deficiencies, including interest, penalties and attorneys' fees, which:

a. arise out of or are due to a breach by the indemnifying party of any of its representations, warranties, covenants or other obligations contained in this Agreement;

b. are caused by or resulting from indemnifying party's acts or omissions constituting bad faith, willful misfeasance, negligence or reckless disregard of its duties under this Agreement or Applicable Laws;

c. accrue or result to any of indemnifying party's subcontractors, material men, laborers or any other person, firm or entity furnishing or supplying services, material or supplies in connection with the performance of this Agreement; or

d. arise out of or are due to the failure of the indemnifying party to correctly and completely pay wages or fail to provide workers' compensation insurance coverage to their employees.

Article 8 - General Terms

8.1 Amendments. This Agreement and the Schedule of Commission may be amended by CCHP upon thirty (30) days notice to Broker. However, any provision hereof that is in conflict with state or federal law is automatically amended to conform to such law.

8.2 Notices. Notices required under this Agreement shall be in writing and delivered personally or sent by United States mail, postage prepaid, and addressed or delivered to the parties at the address in the signature page of this Agreement or such other address as may hereafter be designated by written notice thereof to the other party. If an address is not provided on the signature page by a party, then to the party's regular place of business. If personally delivered, such notice shall be effective upon delivery, and if mailed as provided for above, such notice shall be effective three (3) United States Postal Service delivery days after it is placed in the mail. Notices may be delivered by facsimile or electronic mail upon agreement of the parties.

8.3 Dispute Resolution.

a. **Informal Dispute Resolution.** In the event either party wishes to raise a dispute, it shall provide written notice summarizing the dispute to the other party. Promptly following the delivery of such notice, one senior executive of each party shall negotiate in good faith to resolve the dispute. The parties acknowledge that such negotiation is a condition precedent to the filing of any judicial or arbitration demand.

b. **Arbitration.** In the event a dispute is not resolved through the informal dispute resolution process, either party may submit the dispute to binding arbitration. The arbitration shall be administered by JAMS and in accordance with the JAMS Comprehensive Arbitration Rules and Procedures. Such arbitration shall occur in San Francisco, California. The arbitrator shall apply California substantive law and federal substantive law where state law is preempted. The Federal Arbitration Act, 9 U.S.C. §1-16, shall also apply. The arbitrator shall prepare in writing and provide to the parties an award including factual findings and the legal reasons on which the award is based. The decision of the arbitrator shall be final and binding on each of the parties and judgment thereon may be entered in any court of appropriate jurisdiction.

c. **Costs and Fees.** If a party brings an action or proceeding arising out of or relating to this Agreement, the non-prevailing party shall pay to the prevailing party reasonable attorneys' fees and costs incurred in such action. Any judgment or order entered shall contain a provision providing for the recovery of attorneys' fees and costs incurred in enforcing such judgment. The prevailing party shall be the party who is entitled to recover its costs of suit (as determined by the court of competent jurisdiction or the arbitrator), whether or not the action or proceeding proceeds to final judgment or award.

d. **Confidentiality**. The arbitration and any information obtained in connection with this Agreement or through discovery is confidential and neither the parties nor the arbitrator shall disclose such information to third parties without the written consent of the parties, except that the parties may disclose such information as necessary to seek confirmation of the arbitration award, to enforce any judgment entered on account of the award or as otherwise is required by law; however, the parties may make such disclosure as is necessary to their respective auditors, accountants, attorneys and insurers.

e. **Injunctive Relief**. Either party shall have the right to apply for and obtain a temporary restraining order or other temporary, interim or permanent injunctive or equitable relief from a court of competent jurisdiction in order to enforce the provisions of any part of this Agreement as may be necessary to protect its rights.

8.4 **Independent Contractor Relationship**. The relationship between CCHP and Broker is an independent contractor relationship. This Agreement shall not be construed to create a relationship of agency, representation, joint venture, ownership, control or employment between the parties other than that of independent parties contracting solely for the purpose of effectuating this Agreement. Nothing contained in this Agreement shall cause either party to be liable or responsible for any debt, liability or obligation of the other party or any third party unless such liability or responsibility is expressly assumed by the party sought to be charged therewith.

8.5 **Assignment**. This Agreement shall not be assigned by either party in whole or part without the written consent of the other party.

8.6 **Printed Material**. All printed matter, forms, and other CCHP material provided to Broker by CCHP shall remain the property of CCHP and shall be returned to CCHP upon demand.

8.7 **Records**. Broker shall maintain complete records and books of all transactions related to Applicants, Groups, Members, and all other records and books required by state and federal law. Broker shall keep records and books current and shall keep such record and books for a period of no less than ten (10) years. Broker shall make such records and books accessible to CCHP and any appropriate government, regulatory, or accreditation agency, during normal business hours upon reasonable requests, for the duration of this Agreement and for one (1) year following termination of this Agreement. Broker cannot remove such records and books from the state of California without the consent of the California Department of Managed Health Care and CCHP.

8.8 **Entire Agreement**. This Agreement supersedes all previous agreements and understandings concerning the relationship between CCHP and Broker. This Agreement applies to all Groups and Members, regardless of whether the Group or Member entered into or renewed its Contract prior to the Effective Date. This Agreement shall be interpreted in

accordance with the plain meaning of its terms and not strictly for or against any of the parties hereto.

8.9 Facilitation. Each party agrees promptly to perform any further acts and to execute, acknowledge and deliver any documents, which may be reasonably necessary to carry out the provisions of this Agreement or effect its purposes.

8.10 Interpretation. This Agreement shall be interpreted according to its fair intent and not for or against any one party on the basis of which party drafted the Agreement.

8.11 Disclosures. Broker assumes full responsibility for informing Applicants, Groups, and Members about compensation arrangements with CCHP, consistent with all applicable state and federal laws and prevailing agent/broker codes of conduct. CCHP reserves the right to provide information to Applicants, Groups, and Members concerning CCHP's compensation arrangements with Broker.

8.12 Severability. The provisions of this Agreement shall be deemed severable and if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties. Notwithstanding the foregoing, if enforcement of this Agreement as so modified would substantially deprive one of the parties of the benefit of the original bargain or is materially detrimental to one of the parties, then said party may terminate this Agreement upon thirty (30) days written notice.

8.13 Survival. All provisions that logically ought to survive termination of this Agreement shall survive.

8.14 Captions. Any captions or headings of the articles, sections, subsections, paragraphs, or subparagraphs of this Agreement are solely for the convenience of the parties, are not a part of this Agreement, and shall not be used for the interpretation or determination of validity of this Agreement or any provision hereof.

8.15 Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument. Copies of this document, including faxed versions, may be used in lieu of the original and such copies shall be equally admissible in evidence.

8.16 Cumulative Rights. Any specific right or remedy provided in this Agreement is not meant as an exclusive remedy but will be cumulative of all other rights and remedies. The parties may seek whatever action in law or equity as may be necessary to enforce its rights under this Agreement.

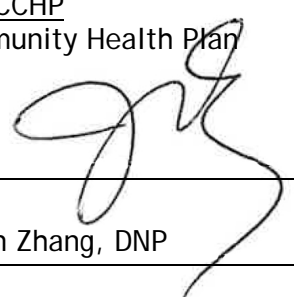
8.17 Waiver of Breach. The waiver by either party to this Agreement of a breach or violation of any provision of this Agreement shall not operate as or be construed to be a waiver of any subsequent breach or violation thereof.

8.18 Incorporation of Exhibits. The exhibits and attachments to this Agreement and any applicable policies and procedures, including without limitation the Schedule of Commission, Broker Group Administrative Guidelines, the Confidentiality Addendum, and the Business Associate Agreement, are an integral part of this Agreement and are incorporated in full herein by this reference.

8.19 Force Majeure. Neither party shall be liable nor deemed to be in default for any delay or failure in performance under this Agreement or other interruption of service or employment deemed resulting, directly or indirectly, from: acts of God; acts of civil or military authority; acts of terrorism or public enemy; war; accidents; fires; explosions; earthquakes; floods; failure of transportation, machinery or supplies; vandalism; strikes or other work interruptions; or any similar or dissimilar cause beyond the reasonable control of either party. Both parties shall, however, make good faith efforts to perform under this Agreement in the event of any such circumstance.

8.20 Unlawful Discrimination. Neither party shall discriminate in the performance of this Project on the basis of race, sex, age, religion, national origin, sexual orientation, place of residence, health status, source of payment, or any other unlawful basis.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the Effective Date.

_____	<u>CCHP</u> Chinese Community Health Plan
Business Name	
SIGNATURE: _____	SIGNATURE:  _____
PRINT NAME: _____	NAME: Jian Zhang, DNP
TITLE: _____	TITLE: Chief Executive Officer
ADDRESS: _____	ADDRESS: 445 Grant Avenue Ste. 700
_____	San Francisco, CA 94108
DATE: _____	DATE: _____
Tax ID # _____	

CHINESE COMMUNITY HEALTH PLAN BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (this “**Agreement**”) is entered into and effective as of the latest date set forth on the signature page (“**Effective Date**”) by and between Chinese Community Health Plan, a California corporation (“**CCHP**”), and the broker specified on the signature page of this Agreement (“**Broker**”) in accordance with the Health Insurance Portability and Accountability Act of 1996 (“**HIPAA**”), as codified at 42 U.S.C. §1320d-d8, and its implementing regulations at 45 C.F.R. Parts 160, 162 and 164 (the “**HIPAA Regulations**”) and attendant guidance; and the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009, and its attendant regulations and guidance (the “**HITECH Act**”). HIPAA, the HIPAA Regulations and the HITECH Act are sometimes referred to collectively herein as “**HIPAA Requirements**.”

I. Purpose of the Agreement.

Business Associate provides certain services on behalf of Covered Entity that require the Covered Entity to disclose certain identifiable health information to Business Associate. The parties desire to enter into this Agreement to permit Business Associate to have access to such information and comply with the business associate requirements of HIPAA, the HIPAA Regulations, and the HITECH Act, as each may be amended from time to time in accordance with the terms and conditions set forth in this Agreement.

II. Definitions.

“**Covered Entity**” is the party disclosing the identifiable health information. “**Business Associate**” is the party receiving the identifiable health information. Unless otherwise specified in this Agreement, all capitalized terms used in this Agreement not otherwise defined have the meaning established for such terms under 45 C.F.R. Parts 160 and 164 and the HITECH Act, each as amended from time-to-time.

III. Terms and Conditions.

Business Associate and Covered Entity (hereinafter, the “**Parties**”) agree to the terms and conditions set forth herein.

A. Business Associate Obligations.

1. Applicable Law. The terms and conditions set forth in this Agreement shall become effective on the later of the Effective Date of this Agreement, April 14, 2003, or any new mandatory compliance date established for HIPAA, the HIPAA Regulations and/or the HITECH Act. The parties acknowledge and agree that HIPAA, the HIPAA Regulations and the HITECH Act may be amended and additional guidance and/or regulations may be issued after the date of the execution of this Agreement and may affect the Parties’ obligations under this Agreement (“**Future Directives**”). The Parties agree to abide by such Future Directives as these Future Directives may affect the obligations of the Parties. If Future Directives affect the obligations of the Parties, then Covered Entity shall notify Business Associate of Future Directives in writing within thirty (30) days before Future Directives are effective. The notification of Business Associate by Covered Entity of Future Directives that affect the obligations of the Parties related to the Business Associate relationship shall be considered amendments to this Agreement binding on both parties. Covered Entity’s failure to notify Business Associate of Future Directives shall not relieve Business Associate of any obligations it may otherwise have under HIPAA Requirements.

2. Permitted Uses and Disclosures. Business Associate shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, further use or disclose patient individually identifiable health information ("Protected Health Information" or "PHI") received from or created for the Covered Entity in any manner that would violate HIPAA, the HIPAA Regulations, the HITECH Act or Future Directives. Business Associate agrees to abide by the HIPAA Requirements with respect to the use or disclosure of Protected Health Information it creates, receives from, maintains, or electronically transmits for the Covered Entity. Business Associate further agrees that it will not use or disclose Protected Health Information beyond the purposes set forth in the Agreement or as required by law as defined in 45 C.F.R §164.103. Except as otherwise limited in this Agreement, Business Associate may use or disclose Protected Health Information to perform functions, activities, or services for, or on behalf of, the Covered Entity as specified in the Broker Agreement between the Parties, provided that such use or disclosure would not violate HIPAA, the HIPAA Regulations or the HITECH Act if done by Covered Entity or the minimum necessary policies and procedures of the Covered Entity.

3. Compliance with Business Associate Agreement and HITECH Act. Effective February 17, 2010, Business Associate may use and disclose PHI that is created or received by Business Associate from or on behalf of Covered Entity if such use or disclosure, respectively, is authorized by this Agreement and complies with each applicable requirement of 45 C.F.R. § 164.504(e) and the HITECH Act. The additional requirements of Subtitle D of the HITECH Act that relate to privacy and that apply to covered entities also will apply to Business Associate and are incorporated into this Agreement by reference.

4. Use of Protected Health Information for Administrative Activities. Notwithstanding Section III.A.2 above, Business Associate may use or disclose Protected Health Information for management and administrative activities of Business Associate or to comply with the legal responsibilities of Business Associate; provided, however, the disclosure or use must be required by law or Business Associate must obtain reasonable assurances from the third party that receives the Protected Health Information that they will (i) treat the Protected Health Information confidentially and will only use or further disclose the Protected Health Information in a manner consistent with the purposes that the Protected Health Information was provided by Business Associate; and (ii) promptly report any breach of the confidentiality of the Protected Health Information to Business Associate. Provided further that Business Associate will notify Covered Entity immediately upon receipt of a request for any disclosure of Protected Health Information required by law.

5. Accounting. Business Associate agrees to document disclosures of Protected Health Information and collect 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 C.F.R. § 164.528 and, if required by and upon the effective date of, Section 13405(c) of the HITECH Act and related regulatory guidance.

(a) Business Associate agrees to provide to Covered Entity or an Individual upon Covered Entity's request, information collected in accordance with this Section, to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 C.F.R. § 164.528 and, if required by and upon the effective date of, Section 13405(c) of the HITECH Act and related regulatory guidance.

6. Restriction. Effective February 17, 2010, and notwithstanding 45 C.F.R. § 164.522(a)(1)(ii), Business Associate must comply with an Individual's request under 45 C.F.R. § 164.522(a)(1)(i)(A) that Business Associate restrict the disclosure of Protected Health Information of the

Individual if (1) except as otherwise required by law, the disclosure is to a health plan for purposes of carrying out payment or health care operations (and is not for purposes of carrying out treatment); and (2) the Protected Health Information pertains solely to a health care item or service for which the health care provider involved has been paid out of pocket in full.

7. Fundraising. Any written fundraising communication occurring on or after February 17, 2010 that is a health care operation shall, in a clear and conspicuous manner and consistent with guidance to be provided by the Secretary, provide an opportunity for the recipient of the communications to elect not to receive any further such communication. An election not to receive any further such communication shall be treated as a revocation of authorization under Section 45 C.F.R. § 164.508. However, no communication pursuant to this Section may be made by Business Associate without prior written authorization by Covered Entity.

8. Sale of Protected Health Information. Upon the effective date of Section 13405(d) of the HITECH Act, Business Associate shall not directly or indirectly receive remuneration in exchange for Protected Health Information that is created or received by Business Associate from or on behalf of Covered Entity unless: (1) pursuant to an authorization by the Individual in accordance with 45 C.F.R. § 164.508 that includes a specification for whether the Protected Health Information can be further exchanged for remuneration by the entity receiving Protected Health Information of that Individual; or (2) as provided for and consistent with Section 13405(d)(2) of the HITECH Act and regulations to be issued by the Secretary, upon the effective date of such regulations. However, in no instance may Business Associate receive remuneration pursuant to this Section without prior written authorization by Covered Entity.

9. Marketing. A communication occurring on or after February 17, 2010 by Business Associate that is described in the definition of marketing in 45 C.F.R. § 164.501(1)(i), (ii) or (iii) for which Covered Entity receives or has received direct or indirect payment (excluding payment for treatment) in exchange for making such communication, shall not be considered a health care operation unless: (1) such communication describes only a drug or biologic that is currently being prescribed for the recipient of the communication and any payment received in exchange for making such a communication is reasonable in amount; or (2) the communication is made by Business Associate on behalf of the Covered Entity and the communication is otherwise consistent with this Agreement. However, no communication pursuant to this Section may be made by Business Associate without prior written authorization by Covered Entity.

10. Safeguarding the Privacy of Protected Health Information. Business Associate agrees that it shall utilize physical, administrative and technical safeguards to ensure that Protected Health Information is not used or disclosed in any manner inconsistent with this Agreement or the purposes for which Business Associate received Protected Health Information from or created Protected Health Information for the Covered Entity. Business Associate further agrees to implement administrative, physical and technical safeguards that reasonably and appropriately protect the confidentiality, integrity and availability of any Protected Health Information that Business Associate creates, receives, maintains or transmits electronically on behalf of Covered Entity under the Agreement. Upon request, Business Associate shall provide the Covered Entity with a written description of the physical, administrative and technical safeguards adopted by Business Associate to meet its obligations under this Section.

11. Security Safeguards. Business Associate acknowledges that, effective February 17, 2010, 45 C.F.R. §§ 164.308, 164.310, 164.312 and 164.316 will apply to Business Associate in the same

manner that such sections apply to covered entities and are incorporated into this Agreement by reference. The additional requirements of the HITECH Act that relate to security and that apply to covered entities also will apply to Business Associate and are incorporated into this Agreement by reference. Business Associate agrees to implement the technical safeguards provided in guidance issued annually by the Secretary for carrying out the obligations under the Code of Federal Regulation sections cited in this Section and the security standards in Subpart C of Part 164 of Title 45 of the Code of Federal Regulations.

12. Employee Training. Business Associate shall train its workforce members who assist in the performance of functions and activities under this Agreement, and who access or disclose Protected Health Information, on information privacy and security requirements. Business Associate shall impose appropriate disciplinary measures on members who intentionally violate Business Associate's privacy and security requirements, including termination of employment if appropriate.

13. Sanctions. Business Associate understands that a failure to comply with HIPAA, the HITECH Act and the HIPAA Regulations that are applicable to Business Associate may result in the imposition of sanctions and/or penalties on Business Associate under HIPAA, the HITECH Act and the HIPAA Regulations.

14. Breach Notification. Business Associate agrees to implement response programs and record-keeping systems to enable Business Associate to comply with the requirements of this Section and 13402 of the HITECH Act and the regulations implementing such provisions, currently Subpart D of Part 164 of Title 45 of the Code of Federal Regulations, when Business Associate detects or becomes aware of unauthorized access to information systems or documents that contain Protected Health Information. Business Associate agrees to mitigate any effects of the inappropriate use or disclosure of Protected Health Information by Business Associate.

(a) Business Associate agrees to notify Covered Entity, by facsimile or telephone, of any breach or suspected breach of its security related to areas, locations, systems, documents or electronic systems which contain unsecured Protected Health Information, including, without limitation, any Security Incident, instance of theft, fraud, deception, malfeasance, or use, access or disclosure of Protected Health Information which is inconsistent with the terms of this Agreement (an "Incident") immediately upon having reason to suspect that an Incident may have occurred, and typically prior to beginning the process of verifying that an Incident has occurred or determining the scope of any such Incident, and regardless of the potential risk of harm posed by the Incident. Notice shall be provided to the Covered Entity's representative designated in this Agreement. Upon discovery of a breach or suspected Incident, Business Associate shall take:

(i) Prompt corrective action to mitigate any risks or damages involved with the breach and to protect the operating environment; and

(ii) Any action pertaining to such unauthorized disclosure required by applicable Federal and State laws and regulations.

(b) In the event of any such Incident, Business Associate shall further provide to Covered Entity, in writing, such details concerning the Incident as Covered Entity may request, and shall cooperate with Covered Entity, its regulators and law enforcement to assist in regaining possession of such unsecured Protected Health Information and prevent its further unauthorized use, and take any necessary remedial actions as may be required by Covered Entity to prevent other or further Incidents. Business Associate and Covered Entity will cooperate in developing the content of any public statements.

(c) If Covered Entity determines that it may need to notify any Individual(s) as a result of such Incident that is attributable to Business Associate's breach of its obligations under this Agreement, Business Associate shall bear all reasonable direct and indirect costs associated with such determination including, without limitation, the costs associated with providing notification to the affected Individuals, providing fraud monitoring or other services to affected Individuals and any forensic analysis required to determine the scope of the Incident. Covered Entity shall provide Business Associate with a copy of any written communication provided to or sent to any individual with regards to such incident.

(d) In addition, Business Associate agrees to update the notice provided to Covered Entity under Section 14(a) of this Agreement of such Incident to include, to the extent possible and as soon as possible working in cooperation with Covered Entity, the identification of each Individual whose unsecured Protected Health Information has been, or is reasonably believed by Business Associate to have been accessed, acquired, used or disclosed during the Incident and any of the following information Covered Entity is required to include in its notice to the Individual pursuant to 45 C.F.R. § 164.404(c):

(i) A brief description of what happened, including the date of the Incident and the date of discovery of the Incident, if known;

(ii) A description of the types of unsecured Protected Health Information that were involved in the Incident (e.g., Social Security number, full name, date of birth, address, diagnosis);

(iii) Any steps the Individual should take to protect themselves from potential harm resulting from the Incident;

(iv) A brief description of what is being done to investigate the Incident, mitigate the harm and protect against future Incidents; and

(v) Contact procedures for Individuals to ask questions or learn additional information which shall include a toll-free number, an e-mail address, Web site, or postal address (provided, Subsection v is only applicable if Covered Entity specifically requests Business Associate to establish contact procedures).

(e) Such additional information must be submitted to Covered Entity immediately at the time the information becomes available to Business Associate.

(f) If the cause of a breach of Protected Health Information is attributable to Business Associate or its agents, subcontractors or vendors, Business Associate is responsible for all required notifications and reporting of the breach as specified in 42 U.S.C. § 17932 and its implementing regulations, including, without limitation, individual notifications, notification to media outlets and to the Secretary of the Department of Health & Human Services. If a breach of unsecured Protected Health Information involves more than 500 residents of the State of California or its jurisdiction, Business Associate shall notify the Secretary of the breach immediately upon discovery of the breach. Such notification(s) and required reporting shall be done in cooperation the Covered Entity subject to Covered Entity's review and approval. If Business Associate has reason to believe that duplicate reporting of the same breach or incident may occur because its subcontractors, agents or vendors may report the breach or incident to Covered Entity in addition to Business Associate, Business Associate shall notify Covered Entity, and Covered Entity and Business Associate may take appropriate action to prevent duplicate reporting.

15. Subcontractors and Agents of Business Associate. Business Associate agrees to enter into written contracts with any of its agents or independent contractors (collectively,

“subcontractors”) who receive Protected Health Information from Business Associate or create, maintain, or transmit electronically, Protected Health Information on behalf of the Covered Entity, as a subcontractor to Business Associate, and such contracts shall obligate Business Associate's subcontractors to abide by the same conditions and terms as are required of Business Associate under this Agreement. Upon request, Business Associate shall provide the Covered Entity with a copy of any written agreement or contract entered into by Business Associate and its subcontractors to meet the obligations of Business Associate under this Section.

(a) Business Associate shall, upon knowledge of a material breach by a subcontractor of the subcontractor's obligations under its contract with Business Associate, either notify such subcontractor of such breach and provide an opportunity for subcontractor to cure the breach; or, in the event subcontractor fails to cure such breach or cure is not possible, Business Associate shall immediately terminate the contract with subcontractor.

(b) To the extent that any of Business Associate's subcontractors will have access to any Protected Health Information that is received, created, maintained or transmitted electronically, Business Associate shall require such agents and subcontractors to agree to implement reasonable and appropriate safeguards to protect such electronic Protected Health Information.

16. Availability of Information to Covered Entity and Individuals. Business Associate agrees to provide access and information as follows:

(a) Business Associate shall provide access as may be required, and in the time and manner designated by Covered Entity (upon reasonable notice and during Business Associate's normal business hours) to Protected Health Information in a Designated Record Set, to Covered Entity (or, as directed by Covered Entity), to an Individual, in accordance with 45 C.F.R. § 164.524. Designated Record Set means the group of records maintained for Covered Entity that includes medical, dental and billing records about individuals; enrollment, payment, claims adjudication, and case or medical management systems maintained for Covered Entity health plans; or those records used to make decisions about individuals on behalf of Covered Entity. Business Associate shall use the forms and processes developed by Covered Entity for this purpose and shall respond to requests for access to records transmitted by Covered Entity within fifteen (15) calendar days of receipt of the request by producing the records or verifying that there are none.

(b) If Business Associate maintains an Electronic Health Record with Protected Health Information, and an individual requests a copy of such information in an electronic format, Business Associate shall provide such information in an electronic format to enable Covered Entity to fulfill its obligations under the HITECH Act, including but not limited to, 42 U.S.C. § 17935(e).

(c) If Business Associate receives data from Covered Entity that was provided to Covered Entity by the Social Security Administration, upon request by Covered Entity, Business Associate shall provide Covered Entity with a list of all employees, contractors and agents who have access to the Social Security data, including employees, contractors and agents of its subcontractors and agents.

17. Access by Covered Entity and Secretary of U.S. Department of Health & Human Services. Business Associate agrees to allow Covered Entity and the Secretary of the U.S. Department of Health & Human Services ("Secretary") access to its books, records and internal practices with respect to the disclosure of Protected Health Information for the purposes of determining the Business Associate's compliance with the HIPAA Privacy Regulations. If Business Associate is the subject of an audit, compliance review, or complaint investigation by the Secretary or the Office of Civil Rights, U.S. Department of Health and Human Services, that is related to the performance of its obligations pursuant to this HIPAA Business Associate Agreement, Business Associate shall notify Covered Entity and provide Covered Entity with a copy of any Protected Health Information that Business Associate provides to the Secretary or the Office of Civil Rights concurrently with providing such Protected Health Information to the Secretary. Business Associate is responsible for any civil penalties assessed due to an audit or investigation of Business Associate, in accordance with 42 U.S.C. § 17934(c).

B. Termination of Agreement.

1. Termination Upon Material Breach. The Covered Entity may, in its sole discretion, terminate the Broker Agreement, including this Agreement, upon determining that Business Associate violated a material term of this Agreement. If the Covered Entity makes such a determination, it shall inform Business Associate in writing that the Covered Entity is exercising its right to terminate this Agreement under this Section III.B and such termination shall take effect immediately upon Business Associate receiving such notification of termination. In accordance with Section 13404(b) of the HITECH Act and to the extent required by the HIPAA Regulations, if Business Associate knows of a material breach or violation by Covered Entity, it shall take all actions required under the HITECH Act and HIPAA Regulations.

2. Reasonable Steps to Cure Material Breach. At the Covered Entity's sole option, the Covered Entity may, upon written notice to Business Associate, allow Business Associate an opportunity to take prompt and reasonable steps to cure any violation of any material term of this Agreement to the complete satisfaction of the Covered Entity within ten (10) calendar days of the date of written notice to Business Associate. Business Associate shall submit written documentation acceptable to the Covered Entity of the steps taken by Business Associate to cure any material violation. If Business Associate fails to cure a material breach within the specified time period, then the Covered Entity shall be entitled to terminate this Agreement under Section III.B above, if feasible.

3. Amendment. Covered Entity may in its sole discretion terminate the Broker Agreement, including this Agreement upon thirty (30) calendar days written notice in the event (i) Business Associate does not promptly enter into negotiations to amend this Agreement when requested by Covered Entity pursuant to Section III.A.1 and Section III.F of this Agreement, or (ii) Business Associate does not enter into an amendment to this Agreement providing assurances regarding the safeguarding of Protected Health Information that Covered Entity, in its sole discretion, deems sufficient to satisfy the standards and requirements of HIPAA, the HIPAA Regulations and/or the HITECH Act.

4. Return of Protected Health Information to Covered Entity Upon Termination. Upon termination of the Agreement for any reason, Business Associate shall return all Protected Health Information to the Covered Entity. The Covered Entity may request in writing that Business Associate destroy all Protected Health Information upon termination of this Agreement rather than returning Protected Health Information to the Covered Entity. If the return or destruction of Protected Health Information is not feasible upon termination of the Agreement, then Business Associate shall explain in writing, directed to the Covered Entity's Chief Privacy Officer, why such return or destruction is not feasible. If such return or destruction is not feasible, then Business Associate agrees that it shall extend

its obligations under this Agreement to protect the Protected Health Information. The Business Associate shall limit its use or disclosure of such Protected Health Information to only those purposes that make it infeasible to return or destroy the Protected Health Information and shall maintain such Protected Health Information only for that period of time that return or destruction of Protected Health Information remains infeasible.

5. Conflicts. The terms and conditions of this Agreement will override and control over any conflicting term or condition of other agreements between the Parties. All non-conflicting terms and conditions of such agreements shall remain in full force and effect.

6. No Third-Party Beneficiary Rights. Nothing express or implied in this Agreement is intended or shall be interpreted to create or confer any rights, remedies, obligations or liabilities whatsoever in any third party.

7. Notice. Except as otherwise provided in Section I.A.14(a), any notice permitted or required by this Agreement will be considered made on the date personally delivered in writing or mailed by certified mail, postage prepaid, to the other party at the address set forth in the execution portion of this Agreement.

8. Amendment. The Parties agree to take such action as is necessary to implement the standards, requirements, and regulations of HIPAA, the HIPAA Regulations, the HITECH Act, and other applicable laws relating to the security or confidentiality of health information. Upon Covered Entity's request, Business Associate agrees to promptly enter into negotiations with Covered Entity concerning the terms of any amendment to the Agreement consistent with the standards, requirements and regulations of HIPAA, the HIPAA Regulations, the HITECH Act or other applicable laws.

9. Relationship of the Parties. The Parties hereto acknowledge that Business Associate shall be and have the status of independent contractor in the performance of its obligations under the terms of this Agreement as to Covered Entity. Nothing in this Agreement shall be deemed or construed to create a joint venture or partnership between Covered Entity and Business Associate, nor create an agency relationship between Covered Entity and Business Associate.

10. Indemnification by Business Associate. Business Associate shall protect, indemnify and hold harmless the Covered Entity, its officers and employees from all claims, suits, actions, attorney's fees, costs, expenses, damages, penalties, judgments or decrees arising out of the failure by Business Associate to comply with the requirements of this Agreement, the HIPAA Requirements and all Future Directives; provided however that such indemnification shall be conditioned upon the Covered Entity's giving prompt notice of any claims to Business Associate after discovery thereof and cooperating fully with Business Associate concerning the defense and settlement of claims.

C. Miscellaneous.

1. Exception to Limitations and Exclusions. Business Associate's obligations under this Agreement and any breach by Business Associate of the obligations in this Agreement shall not be subject to any limitations on damages suffered by Covered Entity that may be specified in any agreement, invoice, statement of work or similar document setting forth the services Business Associate is providing to Covered Entity ("Contract"). No limitation or exclusion in any Contract shall limit Covered Entity's rights to recover from Business Associate damages, losses or sanctions suffered by Covered Entity to the extent of amounts recovered by, or sanctions awarded to, a third party which are caused by Business Associate's breach of the obligations in this Agreement, regardless of how such amounts or sanctions awarded to such third party are characterized.

2. Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under this Agreement, available to Covered Entity at no cost to Covered Entity to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against Covered Entity, its directors, officers or employees based upon claimed violation of HIPAA, the HIPAA Regulations, the HITECH Act or other laws relating to security and privacy, which involve inactions or actions by the Business Associate, except where Business Associate or its subcontractor, employee or agent is a named adverse party.

3. Modification. This Agreement will be modified only by a written document signed by each party.

4. Waiver. The waiver by Business Associate or Covered Entity of a breach of this Agreement will not operate as a waiver of any subsequent breach. No delay in acting with regard to any breach of this Agreement will be construed to be a waiver of the breach.

5. Assignment. This Agreement will not be assigned by Business Associate without prior written consent of the Covered Entity. This Agreement will be for the benefit of, and binding upon, the parties hereto and their respective successors and permitted assigns.

6. Interpretation. The terms and conditions in this Agreement shall be interpreted as broadly as necessary to implement and comply with HIPAA, the HITECH Act, the HIPAA Regulations and applicable state or federal laws. The parties agree that any ambiguity in the terms and conditions of this Agreement shall be resolved in favor of a meaning that complies and is consistent with HIPAA, the HITECH Act and the HIPAA regulations.

7. Governing Law. The interpretation and enforcement of this Agreement will be governed by the laws of the State of California. Exclusive venue shall be in City and County of San Francisco, California.

8. Headings. The section headings contained in this Agreement are for reference purposes only and will not affect the meaning of this Agreement.

9. Counterparts. This Agreement may be executed in counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same.

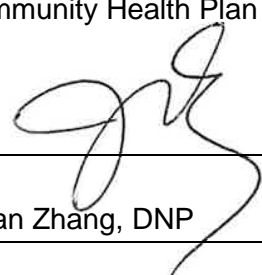
10. Knowledge of Breach. The parties each acknowledge that they do not know of any pattern of activity or practice of the other party that constitutes a material breach or violation of the other party's obligations under this Agreement.

11. Disclaimer. Covered Entity makes no warranty or representation that compliance by Business Associate with this BA Agreement, the HITECH Act, or HIPAA will be adequate or satisfactory for Business Associate's own purposes. Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI.

12. Incorporation. Any provision now or hereafter required to be included in this Agreement by applicable state and federal law, including without limitation HIPAA and the HITECH ACT, or by the DHHS or Center for Medicare and Medicaid Services, shall be binding upon and enforceable against the parties and shall be deemed incorporated herein, irrespective of whether or not such provisions are expressly set forth in this Agreement or the Services Agreement.

12. Application. Notwithstanding anything in this Agreement to the contrary, this Agreement shall apply only if Business Associates is a "business associate" as defined by HIPAA. Business Associate does not, by signing this Agreement, concede it is a business associate.

IN WITNESS WHEREOF, Covered Entity and Business Associate execute this Agreement to be effective on the last date written below, or, if no date is inserted, the Execution Date of the other Agreement referenced above (the "Effective Date").

_____	<u>CCHP</u>
Business Name	Chinese Community Health Plan
SIGNATURE: _____	SIGNATURE:  _____
PRINT NAME: _____	NAME: Jian Zhang, DNP
TITLE: _____	TITLE: Chief Executive Officer
ADDRESS: _____	ADDRESS: 445 Grant Avenue Ste. 700
_____	San Francisco, CA 94108
DATE: _____	DATE: _____
Tax ID # _____	