

Broker Agreement

THIS AGREEMENT (“Agreement”) is made as of the _____ day of _____, 20____ between Lovelace Health System, Inc., dba Lovelace Health Plan (“LHP”), Lovelace Insurance Company (“LINC”), and their duly licensed subsidiaries, affiliates or successors (hereinafter collectively referred to as “LOVELACE”) and _____(hereinafter referred to as “BROKER”). If BROKER is a legal entity (e.g., corporation, partnership), this Agreement is applicable to, and the term “BROKER” includes, its employed agents.

LOVELACE and BROKER have caused this Agreement to be executed in their names either personally or through their duly authorized representatives, as appropriate. In signing this Agreement, BROKER (or, if applicable, its authorized representative) acknowledges that he/she has read this Agreement, understands it, and has kept a copy of it.

WHEREAS, LOVELACE is, or will be, the issuer of certain state-approved health insurance products and the provider of certain health services, including Health Service Agreements (as defined below in Section 1.E); and

WHEREAS, LOVELACE proposes to authorize BROKER to solicit sales of LOVELACE’s Health Service Agreements;

NOW, THEREFORE, in consideration of the covenants and mutual promises herein contained and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged by each party, LOVELACE and BROKER agree as follows:

1. DEFINITIONS

- A.) **Charges** - Means premium and/or premium equivalents in the case of insurance policies, or fees, costs and other payments related to any Health Service Agreement(s).
- B.) **Compensation** - Means commissions and/or service fees based upon Charges and/or an employee or member-based census calculation, depending on the Health Service Agreement sold by BROKER.
- C.) **Customer** - Means the Group Customer or Individual Customer to which/whom a Health Service Agreement has been sold.
- D.) **Group Customer** - Means the corporation, partnership, association, multiple employer trust, union, or other entity to which a Health Service Agreement has been sold.
- E.) **Health Service Agreement** – Means any duly approved LOVELACE indemnity or HMO health product or service offered by or through LOVELACE or any of its duly licensed affiliates, including but not limited to Lovelace Insurance Company. The Health Service Agreement consists of Employer Group Contract (for Groups), a Subscriber Agreement (for Individuals), an Evidence of Coverage (EOC) Handbook, a Summary of Benefits, and any applicable riders.
- F.) **Individual Customer** – Means the individual or representative of an individual, as applicable, to whom any individual insurance product, which meets the definition of a Health Service Agreement, has been sold.
- G.) **Insured Individual** – Means any natural person who is himself or herself covered or insured under or the direct or indirect subject of a Health Service Agreement.
- H.) **Party or Parties** – Means LOVELACE and/or BROKER.

2. AUTHORIZATIONS

- A.) LOVELACE hereby authorizes BROKER to solicit sales of Health Service Agreements from prospective Customers although nothing in this Agreement shall create, or be construed to create, an exclusive authority to represent LOVELACE or to affect sales of Health Service Agreements.
- B.) BROKER hereby authorizes LOVELACE to conduct an investigation relating to BROKER's background and qualifications. BROKER understands that such investigation may include contacting BROKER's employer, verifying residence and reviewing criminal, credit, education and state insurance records.

3. REPRESENTATIONS

- A.) The purpose of this Agreement is to solicit orders from potential buyers of the Health Service Agreements. BROKER and LOVELACE each represent to the other that it has full power and authority to enter into this Agreement.
- B.) BROKER represents to LOVELACE that BROKER is licensed under state insurance or other laws to the extent required under this Agreement and shall be duly appointed by Lovelace to sell the Health Service Agreements, as required or appropriate under state insurance laws.
- C.) BROKER represents that BROKER (or, if applicable, its employed agents, to the best of its knowledge) has never been the subject of any arrest, warrant for arrest, indictment, charge of any kind, or conviction for any felony or any crime or offense involving fraudulent or dishonest practices.
- D.) BROKER represents to LOVELACE that BROKER is not currently the subject of any disciplinary proceeding by any federal or state governmental authority which could render a decision, determination or judgment so adverse to BROKER such that BROKER's licensure or business activity would be affected materially, and BROKER could no longer do business in the same manner as being done presently or as contemplated under this Agreement.

4. EXPRESS CONDITIONS

- A.) BROKER will maintain in full force and effect any and all required licenses and secure any and all necessary appointments and certifications with LOVELACE as required or appropriate under state insurance laws.
- B.) At all times that this Agreement is in force, BROKER agrees to maintain, at its own expense, errors and omissions insurance issued by an insurance carrier deemed acceptable to LOVELACE. Such insurance shall be written on an occurrence basis in an amount not less than \$50,000 per occurrence and \$250,000 annual aggregate. Certificates of insurance evidencing such coverage shall be furnished to LOVELACE upon request.

5. DUTIES OF THE BROKER

- A.) BROKER shall be responsible for offering Health Service Agreements for sale in accordance with the terms of this Agreement.
- B.) All applications for Health Service Agreements shall be made on the appropriate application forms supplied by LOVELACE and BROKER shall ensure the completeness and correctness of such application. BROKER shall promptly forward to LOVELACE all applications found complete together with any payments received with the applications. LOVELACE reserves the right to reject any application and return any payment in connection with an application that is rejected.
- C.) BROKER shall direct all applicants to pay the initial Charges on Health Service Agreements in the form of a check or wire transfer made payable to LOVELACE and cause prompt delivery of such payments to LOVELACE, together with all applications, forms and any other required documentation and shall cause proper delivery of the Health

Service Agreements to Customers, where authorized by LOVELACE, upon receipt of the full amount of the initial Charges.

- D.) BROKER shall assist in the installation of Health Service Agreements and shall provide ongoing consultative services to Group Customers.
 - E.) BROKER shall assist Individual Customers and Insured Individuals with appropriate issues within the scope of BROKER's relationship with such Individual Customers or Insured Individuals and BROKER's authorization by LOVELACE where required by law or requested by such person or by LOVELACE.
 - F.) BROKER shall keep thorough and correct records and books of account of all transactions covered by this Agreement and shall preserve and hold all documents, correspondence and records that come into its possession or under its control relating to Health Service Agreements for a period of at least seven (7) years. All books of accounts, documents, correspondence and records of the BROKER shall belong to the BROKER and shall be open to reasonable inspection by a duly authorized representative of LOVELACE during normal business hours.
 - G.) BROKER shall promptly notify LOVELACE of any material Customer complaint or any notice of regulatory investigation that may involve either BROKER or LOVELACE. BROKER shall immediately notify LOVELACE in writing if any license required to be held by BROKER to perform duties set forth in this Agreement is suspended, cancelled or revoked, or BROKER is otherwise placed under a legal prohibition from soliciting, negotiating or selling insurance in one or more jurisdictions.
 - H.) BROKER agrees to furnish LOVELACE with all information available to BROKER necessary to enable LOVELACE to comply with its obligation under this Agreement and applicable law, including, but not limited to, licensing information and information regarding BROKER's and, if applicable, BROKER's employed agents'; producer status with a Customer.
6. LIMITATIONS ON BROKER'S AUTHORITY Except as otherwise approved by LOVELACE in writing, BROKER is not authorized to:
- A.) accept any risks on behalf of LOVELACE;
 - B.) make any promise or agreement on behalf of LOVELACE;
 - C.) incur any expense or liability in the name of LOVELACE;
 - D.) make, alter, waive or discharge any of the terms, rates or conditions of any application or Health Service Agreement issued, to be issued, agreed to or to be agreed to by LOVELACE;
 - E.) receive any monies due or to become due to LOVELACE except the initial Charges, or deduct Compensation from the initial Charges received;
 - F.) waive any forfeiture or extend the time for making payment of any Charges;
 - G.) adjust or settle any claims; or
 - H.) enter into any proceeding in a court of law or before a regulatory agency in the name of or on behalf of LOVELACE. Where BROKER is named with LOVELACE, BROKER must retain its own counsel.

7. INDEPENDENT CONTRACTORS

- A.) BROKER shall, in its sole discretion and subject to any applicable federal, state or local law, select the Customers from which it will solicit applications for Health Service Agreements as well as the time, manner and place of solicitation. Except as expressly provided in this Agreement, LOVELACE may not direct or control BROKER's activities or manner of performance under this Agreement.
- B.) The relationship of BROKER to LOVELACE shall be that of an independent contractor. Nothing in this Agreement shall create or be construed to create the relationship of employer and employee, partners, or joint ventures between LOVELACE and BROKER.
- C.) Nothing in this Agreement shall create or be construed to create an exclusive authority of BROKER to represent LOVELACE or to effect sales of the Health Service Agreements.

8. SALES PROMOTION MATERIALS

- A.) In representing LOVELACE, BROKER shall utilize only sales materials previously authorized in writing by LOVELACE and shall adhere to all LOVELACE policies, rules and regulations in regard to sales and enrollment, and shall in no way misrepresent LOVELACE or its Health Service Agreements and related products and services.
- B.) BROKER shall indemnify LOVELACE and hold it harmless from and against any losses, claims, damages or liabilities (or actions in respect thereof) to which LOVELACE may become subject insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any unauthorized use of sales materials, any oral or written misrepresentations, any violations or breaches of the terms and conditions of this Agreement, or any unlawful sales practices concerning LOVELACE's Health Service Agreements and related products and services by the BROKER.

9. COMPENSATION

- A.) BROKER agrees to provide LOVELACE with a valid and current BROKER of Record letter and/or LOVELACE's *Customer Acknowledgement Form* for each Group Customer for which BROKER seeks Compensation, or LOVELACE's *Individual Plan Application* for each Individual Customer for which BROKER seeks compensation.
- B.) LOVELACE agrees to pay the BROKER Compensation, in accordance with the applicable negotiated rates set forth on the Commission Schedule attached as Exhibit A to this Agreement (as such Commission Schedule may be amended from time to time). For indemnity and HMO Health Service Agreements, LOVELACE agrees to pay the rate set forth on the Compensation Schedule, based on Charges paid to LOVELACE by the Customer and/or, in the case of a Group Customer, based on an employee or member-based census calculation, at LOVELACE's discretion.
- C.) Charges for any given year are the total Charges due and paid to LOVELACE for the Health Service Agreement in force during such year less any Charges refunded by LOVELACE to a Customer applicable to such year. Any and all expenses incurred by LOVELACE to recover overdue Charges from a Customer, for purposes of calculating Compensation to be paid to BROKER, shall be deducted from the Charges.
- D.) Compensation will be payable only from the later of (a) the effective date of the Health Service Agreement, (b) the first day of the month following the effective date of the appointment of BROKER by Lovelace, (c) the first day of the month following receipt by LOVELACE of a change specified by a Customer when he, she or it has prospectively designated a new producer of record; or (d) the first day of the month following receipt by LOVELACE of a letter from a Customer designating a new producer of record when either no effective date or a retroactive effective date for the change is specified.

- E.) In its sole discretion, LOVELACE reserves the right to modify the Compensation payable hereunder upon thirty days' prior written notice.
- F.) This Agreement will remain in effect and Compensation will continue to be paid with respect to a Health Service Agreement sold to a Group Customer so long as (a) BROKER is continuously and actively engaged as a licensed agent; (b) BROKER continues to represent LOVELACE; (c) BROKER continues to represent and serve the Group Customer(s) in a manner consistent with this Agreement; (d) BROKER continues to have a valid and current BROKER of Record letter for each Group Customer; and (e) each Group Customer continues to have participants enrolled in benefit plans funded or administered by LOVELACE pursuant to its Health Service Agreement for which Charges are paid to LOVELACE.
- G.) This Agreement will remain in effect and Compensation will continue to be paid with respect to a Health Service Agreement sold to an Individual Customer so long as (a) BROKER is continuously and actively engaged as a licensed agent; (b) BROKER continues to represent LOVELACE; (c) BROKER continues to represent and serve the Individual Customer(s) in a manner consistent with this Agreement; and (d) each Individual Customer continues to pay Charges to LOVELACE for insurance or other services based on the existence of any Insured Individual under the Health Service Agreement sold by BROKER to the Individual Customer.
- H.) No Compensation payable to an individual BROKER or a BROKER firm which is a sole proprietorship shall accrue and be payable after the death of the BROKER.
- I.) No Compensation shall accrue and be payable to BROKER (a) after the termination of this Agreement, (b) in states or for Customers for which this Agreement is no longer effective (see Section 18 of this Agreement), or (c) in the event any BROKER license does not comply with Section 10(A) of this Agreement.
- J.) LOVELACE may offset against any claim for Compensation hereunder any debt or debts now due or to become due at any time from BROKER to LOVELACE, whether arising hereunder or otherwise, which debt or debts shall be a first lien thereon.
- K.) BROKER shall under no circumstances whatsoever pay or allow Customer, or offer to pay or allow any rebate of Compensation or Charges in any manner whatsoever, directly or indirectly, except to the extent allowed by law.
- L.) Should LOVELACE make an overpayment of Compensation to BROKER for any reason (including, but not limited to, overpayments resulting from a refund of Charges on any Health Service Agreement sold hereunder or from Compensation payments after BROKER is no longer a Customer's producer of record), BROKER shall repay, on demand, such overpayment or, in accordance with paragraph J of this Section, LOVELACE may offset such overpayment against other Compensation due and payable to BROKER. BROKER shall reimburse LOVELACE for all expenses incurred by LOVELACE, including, but not limited to, collection agency and/or legal fees, if any, to obtain reimbursement of the overpayment from BROKER.

10. COMPLIANCE WITH FEDERAL AND STATE LAWS

- A.) BROKER and LOVELACE each agree to comply with all applicable federal, state and local laws, as well as the rules and regulations of the appropriate regulatory agencies. In addition, BROKER agrees to 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.
- B.) LOVELACE shall, in accordance with LOVELACE policy, reimburse BROKER for the payment of state insurance appointment fees and any renewals thereof as shall be necessary for BROKER to sell or solicit the sale of Health Service Agreements.

- C.) BROKER shall be responsible for the payment of resident and non-resident state insurance license fees and any renewals thereof as shall be necessary for BROKER to sell or solicit the sale of Health Service Agreements. BROKER shall indemnify LOVELACE and hold it harmless from and against any penalties, losses, claims, damages or liabilities (or actions in respect thereof) resulting from LOVELACE paying Compensation under this Agreement to BROKER if BROKER, at the time of said payment, was not properly licensed or appointed, unless said payment was caused by LOVELACE's negligence.
- D.) In the event that any state or federal regulatory authority determines, or LOVELACE reasonably determines, that the terms of this Agreement violate any state or federal law or regulation, this Agreement will be reformed to comply with that law or regulation.

11. RECORDS

Until the expiration of four (4) years after performing the Services under this Agreement, BROKER and any of its subcontractors or agents whose agreements are of a value or cost of ten thousand dollars (\$10,000) or more, shall retain and, upon written request, make available to the Secretary of the Department of Health and Human Services, the Comptroller General of the United States, or any of their duly authorized representatives, the agreement(s), and such books, documents, and records of BROKER and such subcontractors or agents, if any, as are necessary to certify the nature and extent of the costs to LOVELACE of performance of this Agreement. The agreement(s), if any, shall contain a clause similarly requiring the retention and availability of like documentation. LOVELACE may, at any reasonable time, audit the financial records related to the agreement.

12. AFFIRMATIVE ACTION

BROKER shall comply with the requirements set forth in U.S. Department of Labor regulations dealing with equal employment opportunity obligations of government contractors and subcontractors, employment by government contractors and subcontractors of Vietnam-era and disabled veterans, and employment of physically handicapped by government contractors and subcontractors. All of the above referenced regulations are hereby incorporated herein and expressly made a part hereof.

13. COMPLIANCE WITH LOVELACE POLICIES

BROKER agrees to provide all services hereunder in compliance with any written policies and procedures furnished by LOVELACE to BROKER including, without limitation, policies and procedures, relating to LOVELACE's Corporate Responsibility Program, including without limitation, LOVELACE's policies and procedures regarding the reporting of unlawful or unethical behavior. To that end, LOVELACE represents and warrants to BROKER, and BROKER is entitled to rely upon this representation in providing services hereunder, that LOVELACE operates a corporate compliance program designed to ensure that LOVELACE complies with applicable law and regulations. Further, BROKER and each of its employees providing services under this Agreement hereby agree to abide by policies on ethics and compliance of LOVELACE's parent organization, Ardent Health Services, Inc. ("Ardent"). On an annual basis, upon request by LOVELACE, BROKER will certify to LOVELACE its commitment to Ardent's Statement of Ethical Policies.

14. ELIGIBILITY FOR PARTICIPATION IN GOVERNMENT PROGRAMS

BROKER represents that neither BROKER, nor any of BROKER's management or any other employees or independent contractors who will have any involvement in the services or products supplied under this Agreement, have been excluded from participation in any government healthcare program (including but not limited to any state or local program), debarred from or under any federal program (including but not limited to debarment under the Generic Drug Enforcement Act), or convicted of any offense defined in 42 U.S.C. Section 1320a-7, and that BROKER, BROKER's employees, and independent contractors are not otherwise ineligible for participation in federal healthcare programs. Further, BROKER represents that BROKER is not aware of any such pending action(s) (including criminal actions) against BROKER or BROKER's employees or independent contractors. BROKER shall notify LOVELACE immediately upon becoming aware of any pending or final action in any of these areas.

15. CONFIDENTIALITY OF INFORMATION/PRIVACY STANDARDS (HIPAA)

A.) Definitions

- 1.) **“Confidential Information”** shall mean Individually Identifiable Health Information that is transmitted or maintained in any form or medium and any Nonpublic Personal Financial Information, as that term is defined by the NAIC Model Privacy of Consumer Financial and Health Information Regulation (2000) issued pursuant to the Gramm Leach Bliley Act. “Confidential Information” shall also include the Parties’ proprietary programs, systems, services and methodologies; LOVELACE’s negotiated contract rates (including those with its vendors, as well as hospital, physician, and other provider agreements); and either Party’s customer lists, lists of employees and agents, sales and marketing plans, and operating procedures. “Confidential Information” shall not include (i) education records covered by the Family Educational Right and Privacy Act, as amended, 20 U.S.C. §1232g and (ii) records described in 20 U.S.C. §1232g(a)(4)(B)(iv).
 - 2.) **“Individually Identifiable Health Information”** shall mean information that is a subset of health information, including demographic information collected from an individual, and: (i) is created or received by a health care provider, health plan, health care clearinghouse (as those terms are defined in the Privacy Standards) or employer; and (ii) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) identifies the individual, or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
 - (a.) **“Privacy Standards”** shall mean the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the regulations promulgated thereunder, including the Standard for Privacy of Individually Identifiable Health Information (45 C.F.R. Parts 160 and 164), the Standard for Electronic Transactions (45 C.F.R. Parts 160 and 162), and the Security Standards (45 C.F.R. Part 142).
 - (b.) **“Secretary”** shall mean the Secretary of the Department of Health and Human Services.
- B.) BROKER may use Confidential Information to carry out the obligations of BROKER set forth in this Agreement or as required by law, subject to the provisions of this Section. BROKER shall ensure that its directors, officers, employees, contractors and agents do not use Confidential Information received from LOVELACE, any Customer, or any Insured Individual in any other manner and that they do not use it in any manner that would constitute a violation of the Privacy Standards if used in a similar manner by LOVELACE. BROKER shall not use Confidential Information for the purpose of creating de-identified information that will be used for any purpose other than to carry out the obligations of BROKER set forth in this Agreement or as required by law.
- C.) BROKER shall enter into an agreement with any agent, subcontractor or other third party that will have access to Confidential Information that is received from, created or received by BROKER on behalf of LOVELACE pursuant to which such third party agrees to be bound by restrictions, terms and conditions that are substantially the same as those that apply to BROKER pursuant to this Agreement with respect to such Confidential Information. Upon request, BROKER shall provide to LOVELACE a list of all agents, subcontractors or other third parties who have access to Confidential Information through BROKER and shall affirmatively certify that it has entered into the above-mentioned agreements.
- D.) BROKER agrees that it will implement appropriate physical and electronic safeguards to prevent the use or disclosure of Confidential Information in any manner other than pursuant to the terms and conditions of this Agreement.
- E.) BROKER shall, within five (5) business days of becoming aware of a disclosure of Confidential Information in violation of this Agreement by BROKER, its officers, directors, employees, contractors or agents or by a third party to which BROKER disclosed Confidential Information pursuant to paragraph A.2 of this Section of the Agreement, report any such disclosure to LOVELACE.
- F.) Within five (5) business days of a request by LOVELACE for access to Confidential Information, BROKER shall make available to LOVELACE such Confidential Information for so long as such information is maintained. In

the event any individual requests access to Confidential Information directly from BROKER, BROKER may not deny access to the Confidential Information requested. Rather, BROKER shall, within two (2) business days, forward such request to LOVELACE and within an additional three (3) business days forward to LOVELACE the information described above to enable LOVELACE to respond to the request.

- G.) Within ten (10) business days of receipt of a request from LOVELACE for the amendment of an individual's Confidential Information, BROKER shall incorporate any such amendments in the Confidential Information that BROKER maintains. In the event that an individual's request for the amendment of Confidential Information is made directly to the BROKER, BROKER may not deny the requested amendment. Rather, BROKER shall, within two (2) business days, forward such request to LOVELACE and within an additional eight (8) business days forward to LOVELACE the information described above to enable LOVELACE to respond to the request.
- H.) Within ten (10) business days of notice by LOVELACE to BROKER that it has received a request for an accounting of disclosures of Confidential Information regarding an individual during the six (6) years prior to the date on which the accounting was requested, BROKER shall make such information regarding its disclosures available to LOVELACE as is required for LOVELACE to make the accounting. At a minimum, BROKER shall provide LOVELACE with the following information: (i) the date of the disclosure, (ii) the name of the entity or person who received the Confidential Information, and, if known, the address of such entity or person, (iii) a brief description of the Confidential Information disclosed, and (iv) a brief statement of the purpose of such disclosure that includes an explanation of the basis for such disclosure. In the event the request for an accounting is delivered directly to BROKER, BROKER shall within two (2) business days forward such request to LOVELACE.
- I.) BROKER hereby agrees to implement an appropriate record keeping process to enable it to comply with the requirements of this Section.
- J.) BROKER hereby agrees to make its internal practices, books and records relating to the use and disclosure of Confidential Information received from, or created or received by BROKER on behalf of, LOVELACE available to LOVELACE and to the Secretary for purposes of determining LOVELACE's and BROKER's compliance with the Privacy Standards.
- K.) At termination of this Agreement, if feasible, BROKER shall return or destroy all Confidential Information received from, or created or received on behalf of, LOVELACE that BROKER maintains in any form and shall not retain any copies of such information, or if such return or destruction is not feasible, extend the protections in this Agreement to such information and limit further uses and disclosures to those purposes that make the return or destruction of such information infeasible.
- L.) During the term of this Agreement and for a period of five (5) years from the date of its termination, both LOVELACE and BROKER agree that they will not disclose any confidential marketing facts or strategies developed during the course of their relationship, contractual or otherwise, to a nonparty to this Agreement. Disclosure of any proprietary information is an unauthorized act within the meaning of the Agreement and paragraph M of this Section.
- Additionally, it is agreed that during the aforementioned period of time, BROKER shall not disclose the Compensation payable under this Agreement to anyone not a party hereto.
- M.) BROKER shall indemnify LOVELACE and hold it harmless from and against any penalties, losses, claims, damages or liabilities (or actions in respect thereof) to which LOVELACE may become subject insofar as such penalties, losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any unauthorized use or disclosure of Confidential Information by the BROKER or other violation of the terms and conditions of this Section 15.
- N.) This confidentiality provision as set forth in this Section 15 shall survive the termination of this Agreement.

16. ASSIGNMENT

- A.) BROKER shall not assign any rights or delegate any duties under this Agreement unless allowed under applicable state law and unless the BROKER has obtained the prior written consent of LOVELACE, which consent shall not be unreasonably withheld.
- B.) LOVELACE shall not be bound by any assignment of the Compensation payable under this Agreement until the original or a certified copy thereof shall be delivered to LOVELACE, and LOVELACE does not assume responsibility for, or guarantee the validity or sufficiency of, any such assignment.
- C.) LOVELACE may assign its rights or delegate its duties under this Agreement to any entity that owns, controls, or is owned or controlled by, or shares common ownership or control with, LOVELACE without need of notification to BROKER. Should LOVELACE assign its rights or delegate its duties to any other entity not described above, LOVELACE shall provide BROKER with thirty (30) days prior written notice.

17. EFFECTIVE DATE

This Agreement takes effect as of the date above written if duly signed by BROKER (or, if applicable, by an authorized representative of BROKER), and signed by an authorized representative of LOVELACE and recorded at the home office of LOVELACE. The Agreement shall remain in effect thereafter unless terminated as provided in Section 18 below.

18. TERMINATION/EFFECTIVENESS OF AGREEMENT

This Agreement may be terminated after the effective date of this Agreement:

- A.) by mutual consent of the Parties;
- B.) upon thirty (30) days prior written notice by one Party to the other Party (unless additional time for notice is required by applicable law);
- C.) immediately by LOVELACE, if based upon LOVELACE's investigation of BROKER's background and qualifications pursuant to Section 2, LOVELACE does not appoint BROKER to sell its Health Service Agreements;
- D.) immediately upon the BROKER's death or total disability (physical or mental) or adjudication of incompetence if BROKER is an individual;
- E.) immediately upon the BROKER's dissolution if BROKER is a legal entity (e.g., corporation or partnership); or
- F.) immediately by LOVELACE if BROKER does any of the following:
 - 1.) violates state insurance laws or regulations;
 - 2.) knowingly misrepresents the provisions, benefits or Charges of any Health Service Agreement;
 - 3.) withholds or misappropriates funds of LOVELACE;
 - 4.) commits a fraudulent act or other malfeasance in the performance of duties under this Agreement; or
 - 5.) breaches any material provision of this Agreement.
- G.) This Agreement shall not be effective in any state where any of BROKER's licenses are revoked, suspended, or otherwise made invalid.

H.) This Agreement shall not be effective with respect to a specific Customer as of the first day of the month following notice to LOVELACE from the Customer that it has a new producer of record (if a specific, prospective effective date for the change is not otherwise received by LOVELACE from the Customer).

19. AMENDMENTS

This Agreement may be amended in writing from time to time as the Parties shall agree, but no amendment shall be valid unless signed by an authorized representative of LOVELACE and the BROKER (or, if applicable, an authorized representative of the BROKER). Certain actions, assignments or other changes in operations may, however, be undertaken as expressly provided in this Agreement without need of a formal amendment. The Exhibits and Schedules to this Agreement may be amended from time to time by LOVELACE as appropriate.

20. ENTIRE AGREEMENT

This Agreement, and any written amendments hereto, constitute the entire agreement between BROKER and LOVELACE concerning the matters described therein and supersede all previous agreements entered into between the Parties regarding the solicitation and sale of Health Service Agreements or any of the matters treated in this Agreement.

21. SEVERABILITY

If any provision of this Agreement shall be held to be invalid, void or otherwise unenforceable, the Parties agree it shall in no way affect, impair or invalidate any other provision hereof, and such other provisions shall remain in full force and effect.

22. NON-WAIVER POSITION

Failure of any Party to require performance of any provision of this Agreement shall not constitute a waiver of the right to enforce such provision at a later time. Waiver of any breach of any provision hereof shall not constitute a waiver of any succeeding breach.

23. GOVERNING LAW

This Agreement shall be governed by, and shall be construed in accordance with, the laws of the State of New Mexico.

24. ARBITRATION

A.) It is understood and agreed that any dispute, controversy or question arising under this Agreement shall be referred for decision by arbitration in the State of New Mexico by an arbitrator selected by the Parties. The proceeding shall be governed by the Commercial Arbitration Rules of the American Arbitration Association then in effect or such rules last in effect (in the event such Association is no longer in existence). If the Parties are unable to agree upon such an arbitrator within thirty (30) days after either Party has given the other Party written notice of its desire to submit the dispute, controversy or question for decision, then either Party may apply to the American Arbitration Association for the appointment of an arbitrator or, if such Association is not then in existence or does not desire to act in the matter, each Party shall appoint an arbitrator of its choice. The appointed arbitrators will select a third arbitrator to hear the Parties and settle the dispute, controversy or question. The compensation and expenses of the arbitrator(s) and any administrative fees or costs associated with the arbitration proceeding shall be borne equally by the Parties.

B.) Arbitration shall be the exclusive remedy for the settlement of disputes arising under this Agreement. The decision of the arbitrator(s) shall be final, conclusive and binding, and no action at law or in equity may be instituted by either Party other than to enforce the award of the arbitrator(s). This provision shall survive the termination of this Agreement.

25. LIMITATION OF LIABILITY

In no event shall LOVELACE be liable to the BROKER for any consequential, punitive or special damages for any cause arising out of or related to this Agreement. It is expressly agreed that LOVELACE's liability, if any, for damages to BROKER for any cause whatsoever arising out of or related to this Agreement shall be limited to BROKER's actual

damages which shall not exceed the Compensation paid to BROKER by LOVELACE under this Agreement during the twelve (12) month period immediately prior to the date the alleged cause of action arose.

26. NOTICES

Unless otherwise provided in this Agreement, all notices, requests, demands and other communications which must be provided under this Agreement shall be in writing and shall be deemed to have been given on the date of service if served personally on the Party to whom notice is to be given or on the date of mailing if sent by registered or certified mail, postage prepaid, or by an overnight delivery service.

A.) All notices to LOVELACE shall be sent to: Lovelace Health System, Inc.
dba Lovelace Health Plan
Lovelace Insurance Company
4101 Indian School Road, NE
Albuquerque, NM 87110
Attn: Legal Counsel

B.) All notices to BROKER shall be sent to: _____

27. HEADINGS

The headings in this Agreement are for reference purposes only and shall not be deemed part of this Agreement or to affect its meaning or interpretation.

Lovelace

By: _____
(Signature)

(Print Name)

Authorized Representative for Lovelace
Health Plan and Lovelace Insurance Company
(Title)

Date: _____

BROKER

By: _____
(Signature)

(Print Name)

(Title)

Date: _____

**Commission Schedule
Commercial Groups**
Effective 11/21/11

<u>Small Groups 2-50</u>	Sold On or Prior to 8/31/05	Sold On or After 9/1/05
Premium Range	<u>Commission %</u>	<u>Commission %</u>
Up to \$10,000	10%	12%
\$10,001 to \$30,000	7%	9%
\$30,000 and over	4%	6%

Large Groups 51+

For large groups over 51 employees, Lovelace Health Plan (LHP) or Lovelace Insurance Company (LINC) will apply the standard 4% fixed rate unless otherwise negotiated and approved by LHP or LINC Underwriting.

iPlan (Sold on or prior to 7/31/2011)

9% on premiums paid

iPlan (Sold on or after 8/1/2011)

10% on premiums paid through 7/31/16

New Mexico Health Insurance Alliance (NMHIA)

6% on premiums paid

State Coverage Insurance (Existing Employer Group Members)

Effective 9/1/2008: \$150 per member for employees enrolled through a Lovelace SCI Employer Group Plan. An additional \$150 paid when member recertifies with the State of New Mexico.

Premium Assistance for Kids (PAK)

18% paid on premium paid by member