

# MULTIFLEX DENTAL AGENT /PRODUCER AGREEMENT

This Agreement is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Merchants Benefit Administration, Inc. ("MBA, Inc."), an Arizona Corporation and \_\_\_\_\_ (hereinafter referred to as AGENT):

Agent Information: (Please print or type clearly)

	Agent (complete if commission check is payable to AGENT)	Agency (complete if commission check is payable to Agency)
Name:		
Contact:		
Street Address:		
City:		
State:		
Zip:		
Telephone Number:		
Fax Number:		
EMAIL:		
Federal Tax ID:		
SSN:		
Birthdate:		
E&O Carrier:		
E&O Exp. Date:		
General Agent:		

A copy of the Agent Current license (s) and E&O declaration page must be submitted with this completed agreement. **All commissions will be paid based on the holder of the Tax ID number and must match the name listed on the license and E&O Declaration page.**

Failure to forward license and/or E&O documentation to MBA, Inc. prior to their expiration date(s) will result in the suspension of commissions effective on the commission cycle immediately following the expiration date(s). Failure to provide proof of current licensing and/or E&O within 60 (sixty) days after the expiration date of either license and/or E&O will result in the forfeiture of commissions retroactive to the expiration date. After forfeiture, reinstatement of commission payments can be accomplished by providing the required license and/or E&O documentation to MBA, Inc. Reinstatement of commissions will commence on the next commission cycle immediately following receipt of the required license and/or E&O. **In no event will commissions be paid for retroactive periods after forfeiture has taken place.**

**Agency Licensing Form:** Please complete for all states for which the Agent and Agency is licensed.

State Code	State	Agent License Number	Exp. Date (MMDDYYYY)	Agency License Number	Exp. Date (MMDDYYYY)
AL	ALABAMA				
AK	ALASKA				
AR	ARKANSAS				
AZ	ARIZONA				
CA	CALIFORNIA				
CO	COLORADO				
CT	CONNECTICUT				
DC	WASHINGTON DC				
DE	DELAWARE				
FL	FLORIDA				
GA	GEORGIA				
HI	HAWAII				
IA	IOWA				
ID	IDAHO				
IL	ILLINOIS				
IN	INDIANA				
KS	KANSAS				
KY	KENTUCKY				
LA	LOUISIANA				
MA	MASSACHUSETTS				
MD	MARYLAND				
ME	MAINE				
MI	MICHIGAN				
MN	MINNESOTA				
MO	MISSOURI				
MS	MISSISSIPPI				
MT	MONTANA				
NC	NORTH CAROLINA				
ND	NORTH DAKOTA				
NE	NEBRASKA				
NH	NEW HAMPSHIRE				
NJ	NEW JERSEY				
NM	NEW MEXICO				
NV	NEVADA				
NY	NEW YORK				
OH	OHIO				
OK	OKLAHOMA				
OR	OREGON				
PA	PENNSYLVANIA				
RI	RHODE ISLAND				
SC	SOUTH CAROLINA				
SD	SOUTH DAKOTA				
TN	TENNESSEE				
TX	TEXAS				
UT	UTAH				
VA	VIRGINIA				
VT	VERMONT				
WA	WASHINGTON				
WI	WISCONSIN				
WV	WEST VIRGINIA				
WY	WYOMING				



## RECITALS

**WHEREAS**, MBA, Inc. has been authorized by various insurance companies and Merchants Industry Fund Group Insurance Trust to administer, market and distribute Products covered under this Agreement,

**WHEREAS**, MBA, Inc. is interested in contracting with AGENT for assistance with preparation of proposals for clients of the AGENT, and assistance with servicing group insurance plans/programs covered by this Agreement; and

**WHEREAS**, AGENT is interested in contracting with MBA, Inc. under the terms and conditions contained in this Agreement.

**NOW THEREFORE**, the parties hereto, based upon the mutual promises and representations contained herein, agree to the following terms and conditions:

### **I. AGENT Responsibilities**

#### **A. Licensing:**

AGENT shall be duly licensed and authorized by the State(s) where he/she markets and distributes insurance products covered by this Agreement. AGENT is solely responsible for maintaining such licensure and paying any necessary and attendant fees for such licensure and any related continuing education.

#### **B. Marketing, Training & Education:**

AGENT shall complete a focused training and education program prior to the solicitation and/or marketing of the Multiflex Dental plan(s) and those other products or services offered by MBA, Inc.

1. Such training and education shall include general training and education about the Multiflex Dental Plan (s) offered by MBA, Inc. and shall be conducted by an appointed General AGENT and/or MBA, Inc. Such training and education shall also include regulatory training for the purpose of ensuring compliance with state and federal laws which govern the delivery of group health, group retiree programs, life and disability insurance products.
2. All AGENT appointments are subject to approval and acceptance by MBA, Inc. and the insurance carrier. AGENT must receive written acknowledgment of appointment prior to any and all sales or marketing efforts involving the Multiflex Dental Plan Products. The AGENT information, certification and licensing sections of this Agreement must be completed and submitted to MBA, Inc. by AGENT prior to appointment.

#### **C. AGENT Administration:**

AGENT will be responsible for receiving initial application and enrollment forms and reviewing master applications and enrollment applications for completeness, accuracy and suitability for coverage. AGENT will then submit applications and all required supplemental information to the General AGENT or MBA, Inc. All premium funds received by AGENT shall be on a check from the employer/plan sponsor or plan participant. Such checks shall be held in a fiduciary capacity by AGENT and shall be forwarded immediately to the General

AGENT or MBA, Inc. AGENT shall also submit any and all information necessary for the proper enrollment of a group or plan participant.

1. AGENT shall comply with all rules and regulations of MBA, Inc. and/or insurance carriers underwriting products offered by MBA, Inc.
2. AGENT shall comply with all state and federal laws in those jurisdictions where the AGENT operates. AGENT shall also ensure compliance with such state and federal laws by its network of AGENTS, employees, officers and directors.
3. AGENT shall recognize and hold all software, rates, descriptive materials and other supplies provided by MBA, Inc. and/or insurance carriers underwriting products offered by MBA, Inc. as confidential and proprietary, and shall return such supplies to MBA, Inc. upon the termination of this Agreement or within 10 days of any written demand by MBA, Inc.
4. Any and all advertising and/or marketing materials provided to AGENT by MBA, Inc. or its designee shall be returned to MBA, Inc. upon termination of this Agreement or within 10 days of any written demand by MBA, Inc.
5. AGENT shall provide prompt service to those employers/plan sponsors or plan participants participating in insurance programs offered through MBA, Inc. for which AGENT is being paid commissions under this Agreement. AGENT shall cooperate fully with MBA, Inc. to ensure prompt and courteous service to employer/plan sponsors and participants.
6. AGENT shall provide additional services as necessary to ensure the efficient administration of policies issued through MBA, Inc. and as reasonably requested by MBA, Inc. or insurance carriers.

**D. Indemnification and Premium Refund:**

AGENT shall indemnify and hold MBA, Inc. harmless for any acts or omissions of its employees, officers and directors in the administration and sale of policies under this Agreement.

1. MBA, Inc. will defend and indemnify AGENT from and against liability, including the costs of defense, settlements, and damages, imposed on it by law which are sustained by policyholders, and caused by the negligent acts or omissions of MBA, Inc., provided AGENT:
  - a. Has not caused or contributed to such liability by his own acts or omissions;
  - b. Notifies MBA, Inc. promptly of any claim or suit against MBA, Inc. or AGENT the AGENT receives;
  - c. Allows MBA, Inc. to make any investigations, settlements or defense that MBA, Inc. deems prudent.
2. AGENT will defend and indemnify MBA, Inc. from and against liability, including the costs of defense, settlements, and damages, imposed on it by law which are sustained by MBA, Inc., and caused by the negligent act or omissions of AGENT.

3. AGENT agrees and acknowledges that MBA, Inc. has a first lien against any commissions due AGENT for any indebtedness of AGENT to MBA, Inc. under this Agreement. AGENT further grants MBA, Inc. a security interest in all accounts and/or expirations under the control or in the possession of AGENT in connection with such indebtedness. In the event AGENT fails and/or refuses to pay MBA, Inc. funds that are due, MBA, Inc. shall obtain ownership of accounts and/or expirations under the control or in the possession of AGENT. This provision shall not limit other rights and remedies of MBA, Inc. in connection with the collection of indebtedness by AGENT.
4. AGENT shall promptly refund that portion of its commission that is attributable to refunds paid by MBA, Inc. to any employer/plan sponsor. AGENT shall refund amounts demanded by MBA, Inc. within 10 days of any written refund request.

**E. Advertising, Communication & Marketing Materials:**

AGENT shall obtain written approval of any and all advertising and/or marketing materials in advance of their use. For purposes of this paragraph, "marketing materials" means any and all written correspondence or documentation which references Multiflex Dental Plan Products, MBA, Inc. and/or any insurance carrier providing products through MBA, Inc. and which is intended to solicit, negotiate or effectuate employer groups or plan participants for insurance coverage. Such materials include but are not limited to: brochures, letters, presentations, postcards, fliers, facsimiles, web site content, applications or any other descriptive literature.

**F. Errors and Omissions Coverage:**

AGENT shall maintain errors and omissions (professional liability) insurance coverage in the amount of One Million Dollars per claim with a One Million Dollar aggregate and a deductible no greater than \$25,000. AGENT shall provide current declarations pages for such coverage to MBA, Inc. on a yearly basis or as requested by MBA, Inc. Further AGENT shall promptly notify MBA, Inc. in the even that such errors and omissions coverage are terminated.

**G. Authority:**

1. AGENT shall have no authority and shall not enter into any agreement in the name of MBA, Inc. or any insurance carrier offering products through MBA, Inc.
2. AGENT shall have no authority and shall not incur debt, expense or liability in the name or on behalf of MBA, Inc. or any insurance carrier offering products through MBA, Inc.
3. AGENT shall have no authority and shall not alter, amend, modify or eliminate any policy provision, application, rider or endorsement for policies and insurance products offered through MBA, Inc.
4. AGENT shall have no authority and shall not infer or suggest that MBA, Inc. is an insurance carrier or is otherwise authorized to issue insurance contracts.
5. AGENT shall have no authority and shall not pay or allow or offer to pay or allow any rebate or inducement for insurance in any manner whatsoever, whether directly or indirectly.

6. AGENT shall have no authority and shall not issue any binding receipt for any contributions or premiums paid by or on behalf of employer/plan sponsors.
7. AGENT shall have no authority and shall not respond to any department of insurance or other regulatory inquiry on behalf of MBA, Inc. and/or insurance carriers offering coverage through MBA, Inc. Any such complaints/inquiries shall be forwarded to MBA, Inc. within 24 hours of receipt. Further, AGENT agrees to fully cooperate with MBA, Inc. and/or insurance carrier(s) in preparing responses to the appropriate regulatory agencies.
8. AGENT shall have no authority to respond to or settle legal action on behalf of MBA, Inc. and/or insurance carriers offering coverage through MBA, Inc. Any demand letters, complaints, subpoenas or other legal documents relating to products under this Agreement shall be provided to MBA, Inc. (with any supporting documentation) within 24 hours of receipt by AGENT.
9. AGENT shall have no authority to issue or distribute any marketing or advertising materials without the prior written approval of MBA, Inc. and if necessary, the insurance carriers offering coverage through MBA, Inc.
10. AGENT authorizes MBA, Inc. to perform or delegate performance of background checks/investigations as part of the licensing process. AGENT acknowledges that such background investigation(s) are authorized and agrees to hold MBA, Inc. harmless in connection with such background investigations.

## **II. Responsibilities of MBA, Inc.:**

- A. MBA, Inc. agrees to pay AGENT first year and renewal commissions based upon premiums actually paid by an employer/plan sponsor (net of any administration fees) or plan participants. The term "premium" shall mean the premiums actually paid for benefits provided by the policy or certificate and shall only include those sums that have been properly paid by the bank or financial institution where any such check is drawn. The commissions to be paid by MBA, Inc. to AGENT are set out in Exhibit "A" attached hereto. MBA, Inc. reserves the right to adjust AGENT commissions on a prospective basis. MBA, Inc. and AGENT may agree, on a case by case basis, to enter into a commission modification agreement which can adjust the commission paid to the AGENT. All such agreements will be executed by both MBA, Inc. and AGENT and will be added as an addendum to this Agreement.
- B. MBA, Inc. shall pay AGENT commissions monthly based upon calculations of premiums paid and negotiated for employer/plan sponsors. Commission payments may be subject to adjustment based upon employer/plan sponsor terminations, enrollment changes, administration fees, rate changes, lapses and/or at the direction of the underwriting carrier.
- C. MBA, Inc. shall provide AGENT with approved advertising, marketing and other necessary materials for the solicitation, negotiation and effectuation of coverage's offered through MBA, Inc.
- D. MBA, Inc. and/or insurance carriers that provide products through MBA, Inc. reserve the right to reject or decline any application and or AGENT appointment deemed unacceptable in their sole and exclusive discretion.

- E. MBA, Inc. and/or insurance carriers that provide products through MBA, Inc. reserve the right to rescind or reform any certificates of coverage and reserve all other underwriting rights.
- F. MBA, Inc. and/or insurance carriers that provide products through MBA, Inc. reserve the right to discontinue, withdraw or modify any certificate, plan of insurance or endorsement/rider to any policy or plan of insurance.

### **III. General Provisions:**

A. Any notice required pursuant to this Agreement shall be in writing and shall be deemed received (a) when personally delivered, or (b), 72 hours after mailing such notice first class, postage prepaid, to the AGENT Address as listed on page one of this agreement. If to MBA, Inc.:

Merchants Benefit Administration  
13840 N. Northsight Blvd., Suite 101  
Scottsdale, AZ 85260

B. This Agreement and any subsequent agreements between the parties hereto shall be governed and construed in accordance with the laws of the State of Arizona. Any action brought to enforce a term or provision of this Agreement shall be brought exclusively in the Maricopa County Superior Court in Phoenix, Arizona. The parties to this Agreement expressly consent to the jurisdiction of such court for the resolution of any disputes arising under this Agreement

C. If any term or provision of this Agreement is determined to be unenforceable, such term or provision shall be stricken from this Agreement and the remaining portions shall remain in full force and effect.

D. Each party agrees to indemnify and hold the other party harmless from and against any and all losses, costs, damages and expenses (including reasonable attorneys' fees and extra-contractual damages which may include, but are not limited to, compensatory, consequential and/or punitive damages) which the other party may incur by reason of any demand or action by any third party arising out of the negligence, willful misconduct and/or bad faith action of the party responsible for the performance of the duties outlined in this Agreement.

Without limiting the generality of the foregoing, if MBA, Inc. is cited by an insurance department or regulatory authority for noncompliance or alleged noncompliance with any law or regulation, which citation is caused by AGENT in the performance of its soliciting, procuring or marketing activities, AGENT shall indemnify MBA, Inc. for any (a) legal or administrative expenses incurred by MBA, Inc. to cure such citation, and (b) monetary fine or penalty assessed against or imposed upon MBA, Inc.

E. This Agreement shall remain in full force and effect until such time that either party provides written notice of its intent to terminate. However, the parties hereto agree that there will be situations where modification of commissions will be necessary in the sales/solicitation process that may affect the total compensation of the parties. In the event the parties agree to such modification, a situation specific Commission Modification Agreement shall be executed by and between MBA, Inc. and AGENT. The Commission Modification Agreement shall govern the

compensation arrangement for the specific cases it references and will supersede the commission/compensation arrangement contained in this Agreement. Notwithstanding a Commission Modification Agreement, all other rights and responsibilities of this Agreement shall remain in full force and effect. The parties shall continue to respect their rights and responsibilities under this Agreement up to the termination date. Subject to paragraphs E and J below, unless AGENT is indebted to MBA, Inc. AGENT shall continue to receive commissions on business written through MBA, Inc. prior to termination of this Agreement. In order to receive commissions under this Agreement the AGENT must be duly licensed and be covered under the appropriate E&O coverage.

F. This AGENT Agreement will remain in force as long as MBA, Inc. is recognized by the underwriting insurance carrier as broker of record and so long as such employer sponsored policies/certificates remain in full force and effect and have selected AGENT as their broker of record. Additionally, the AGENT must maintain licensing and Errors and Omissions coverage in good standing in order for this agreement to remain in full force and effect.

G. This Agreement constitutes the final, complete and exclusive agreement between the parties hereto and supersedes any and all prior agreements between the parties. No prior or contemporaneous oral representations shall be allowed to supplement, modify or explain this Agreement.

H. This Agreement may only be amended or modified in writing and signed by MBA, Inc.

I. Failure of MBA, Inc. or AGENT to insist upon strict compliance with any provision of this Agreement shall not be construed as a waiver of any provision, which shall remain in full force and affect.

J. If either party is required to institute legal proceedings to enforce a provision of this Agreement, the successful party in such legal proceedings shall be entitled to their reasonable attorney's fees and costs as determined by a court of competent jurisdiction.

K. This Agreement may be terminated, without cause, by either party at any time effective upon not less than 30 days prior written notice to the other party. Notice shall be given pursuant to Paragraph III A. of this Agreement, and shall state the effective date of the termination. If no effective date is stated, the Agreement shall be deemed to terminate 30 days after written notice is received.

L. This Agreement may be terminated for cause by either party upon ten days written notice. If such breach has not been cured during the ten (10) day notice period, the termination shall be effective at the end of such ten (10) day period.

M. This Agreement will terminate automatically for the following reasons:

- a. If a party becomes insolvent, makes an assignment of its assets for the benefit of creditors, files a voluntary petition in bankruptcy or for reorganization under the bankruptcy laws, consents to the appointment of a receiver, trustee or liquidator, or suffers an order against it pursuant to the bankruptcy laws approving the filing of an involuntary petition in bankruptcy against such party;
- b. If a party suffers a change in control that puts into conflict any agreement of either party; or if either party determines the person or entity gaining control is in direct competition with the other party; or the character, reputation or nature of business of the person or entity gaining control is in conflict with the ethical business

practices of either party. For purposes hereof, a change in control is deemed to occur if more than 50% of such party's voting stock shall, without the other party's consent, become beneficially owned by any person or entity not presently affiliated with such party.

- c. If AGENT fails to comply with applicable federal or state laws and regulations including without limitation, if AGENT loses its license to transact business in any state.
- d. If AGENT commits any fraud, embezzlement or financial impropriety.

N. This Agreement may not be assigned by AGENT without the prior written authorization of MBA, Inc. Such authorization shall not be unreasonably withheld.

**Accepted By:**

**Merchants Benefit Administration, Inc.**

**AGENT**

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**General AGENT**

Name: \_\_\_\_\_  
Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

# EXHIBIT A

## Commission Schedule – Multiflex Dental

All commissions are net of Administration Fees payable to MBA, Inc. and/or MIFGIT. All commission percentages are based on policy effective date and date of premium receipt.

### Writing Agent Level-1:

#### Per Case standard commission percentages:

Writing Agent Level-1	First Year	Renewals
Multiflex Dental	10%	8%

#### Per Case commission percentages for specific Nationwide states where a 65% loss ratio or better is required: AR, KY and NY

Writing Agent Level-1	First Year	Renewals
Multiflex Dental	7%	7%

Non-standard commission states are determined by the underwriting carrier and are subject to change based on regulatory guidelines published by individual states.

This Exhibit shall be subject to all terms and conditions of the Multiflex Dental General Agent/Producer Agreement to which it is attached. Commissions are subject to change at anytime with 30 days prior written notice.

Failure to forward license and E&O documentation to MBA, Inc. prior to their expiration date(s) will result in the suspension of commissions effective on the commission cycle immediately following the expiration date(s). Failure to provide proof of current and continuous licensure and/or E&O within 60 (sixty) days after the expiration date of license and/or E&O will result in the forfeiture of commissions retroactive to the expiration date. After forfeiture, reinstatement of commission payments can be accomplished by providing the required license and/or E&O documentation to MBA, Inc. Reinstatement of commissions will commence on the next commission cycle immediately following receipt of the required license and/or E&O documentation.

**In no event will commissions be paid for retroactive periods after forfeiture has taken place.**

**Agent Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**EXHIBIT B**

We are pleased to offer you a new payment convenience—*Direct Deposit*. Now you can have your commissions payable by Gilsbar automatically deposited in your checking or savings account. **You do not have to change your present banking relationship to take advantage of this service.**

**Direct Deposit will help you in many ways.**

- Your money is deposited faster—no more waiting for the mail
- It saves trips to your financial institution.
- It saves time in depositing checks—no long lines to wait in.
- It eliminates the possibility of lost, stolen or forged checks.
- It means you get your money deposited to your account even if you are on vacation or away from the office on business or illness.

*Direct Deposit* is safe, convenient and easy. To take advantage of this service, complete the attached authorization form and return it to Gilsbar.

*The authorization form, which is provided below, gives Gilsbar and your financial institution authority to deposit your payment to your account. Simply complete the form in order to take advantage of Direct Deposit.*

**All you need do is:**

1. Complete the authorization form below. Missing information may delay the process of your application.
2. Mail completed form and voided check to:  
Gilsbar  
Attn: Finance  
PO Box 998  
Covington, LA 70434
3. Or you may fax the authorization form and a copy of a voided check to 985-898-1507.

**AUTHORIZATION FOR DIRECT DEPOSIT**

I authorize Gilsbar, Inc. to initiate electronic credit entries, and if necessary, debit entries and adjustments for any credit entries in error to my account each pay period. I acknowledge that the origination of ACH transactions to my account must comply with the provisions of U.S. law. This authority will remain in effect until I have cancelled it in writing.

**Agent Number (optional):** \_\_\_\_\_

**Name (Please Print):** \_\_\_\_\_

**Company/ Agency Name:** \_\_\_\_\_

**Business Address:** \_\_\_\_\_

**Business Phone:** \_\_\_\_\_

**Personal Phone:** \_\_\_\_\_

**\*\*Signature:** \_\_\_\_\_ **Date:** \_\_\_/\_\_\_/\_\_\_

**Pay to: \_\_\_ AGENT or \_\_\_ Agency**

**\*\*Type of Account:**  **checking account** or  **savings**

**PLEASE INCLUDE A VOIDED CHECK WITH THIS FORM.**

Financial Institution Name (Please Print): \_\_\_\_\_

Account Number at Financial Institution: \_\_\_\_\_

Financial Institution Routing/Transit Number: \_\_\_\_\_

Financial Institution City and State: \_\_\_\_\_

**PLEASE KEEP A COPY OF THIS AUTHORIZATION FOR YOUR RECORDS.**