



**Universal American Agent Contract**

For Express Contracting with Universal  
American Complete and Fax Contract to:

**469-675-3496**

**Attach copy of your licenses  
and E & O Coverage**

**AGENT APPLICATION and AGREEMENT  
for  
CMS-Approved Medicare Advantage and Prescription Drug Plans  
(No State Appointment Fee Required)**

**I. APPLICATION**

**Section 1: AGENT INFORMATION**

First Name \_\_\_\_\_ Middle Initial \_\_\_\_\_ Last Name \_\_\_\_\_

Res. Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Res. Address \_\_\_\_\_ City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone (\_\_\_\_) \_\_\_\_\_ Work Phone (\_\_\_\_) \_\_\_\_\_

E-mail Address \_\_\_\_\_ Social Security Number \_\_\_\_\_ - \_\_\_\_\_

Fax Number (\_\_\_\_) \_\_\_\_\_ Birth Date \_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_

1. Are you currently appointed with any of the following subsidiaries of Universal American Financial Corp.? Each entity listed below is an "Affiliate Company." (Check all that apply.)

- |   |  |   |  |
|---|--|---|--|
| <input type="checkbox"/> American Exchange  | <input type="checkbox"/> American Pioneer  | <input type="checkbox"/> American Progressive | <input type="checkbox"/> Constitution Life |
| <input type="checkbox"/> Marquette National | <input type="checkbox"/> Pennsylvania Life | <input type="checkbox"/> Pyramid Life         | <input type="checkbox"/> Union Bankers     |

a. If yes, provide your current Agent Number: \_\_\_\_\_

b. What other company(s) are you currently appointed with: \_\_\_\_\_

2. I am contracting as a(n):     Individual (Sole Proprietor)     Corporation     Partnership

a. Please identify each ("Company") listed below that you wish to contract with to sell Medicare Advantage ("MA or MA-PD") or Prescription Drug Plans ("PDP"). Each entity listed below, with the exception of ABRI Health Plan, Inc., is an "Affiliate Company." (Check all that apply.)

- |  |   |
|--|---|
| <input type="checkbox"/> ABRI Health Plan, Inc.* (Today's Health <sup>3</sup> )  | <input type="checkbox"/> Global Health, Inc. (Generations Healthcare <sup>3</sup> )               |
| <input type="checkbox"/> American Progressive Life & Health Insurance Company of New York (Today's Options <sup>1</sup> )      | <input type="checkbox"/> Pennsylvania Life Insurance Company (Prescription Pathway <sup>2</sup> ) |
| <input type="checkbox"/> American Progressive Life & Health Insurance Company of New York (Prescription Pathway <sup>2</sup> ) | <input type="checkbox"/> Pennsylvania Life Insurance Company (Community Care Rx <sup>2</sup> )    |
| <input type="checkbox"/> American Progressive Life & Health Insurance Company of New York (Community Care Rx <sup>2</sup> )    | <input type="checkbox"/> The Pyramid Life Insurance Company (Today's Options <sup>1</sup> )       |
|  | <input type="checkbox"/> Select Care Health Plans, Inc. (Texas First <sup>3</sup> )               |
|  | <input type="checkbox"/> Select Care of Texas, L.L.C. (Texan Plus <sup>3</sup> )                  |

\*ABRI Health Plan, Inc. is not a subsidiary of, nor affiliated with, Universal American Financial Corp.

<sup>1</sup> PFFS    <sup>2</sup> PDP    <sup>3</sup> HMO

b. I am requesting authorization to sell Medicare Advantage Plans ("MA or MA-PD") and Prescription Drug Plans ("PDP") for the Company(ies) in the state(s) of:

***(Attach copies of your Accident & Health license(s) for the applicable state(s) listed above.)***

c. Commissions will be payable to me by (check only one):

- Company or                       My Sales Manager (if you choose this box, please refer to item 12 in Section II)

d. Commissions will be payable to the contracted individual/entity:

- Individual Social Security Number: \_\_\_\_\_
- Corporation/Partnership Tax ID Number: \_\_\_\_\_

3. I hereby request, subject to final approval of the Company, advances of first year commissions as follows:

- 3-months                       6-months                       9-months                       12-months

*I understand if no election is made, commissions will be paid as earned.*

4. I understand that all advances and commissions due to me will be deposited by the Company directly into my bank account. I understand that the company may discontinue commission advances at any time. I hereby authorize the Company to deposit all commissions due me to my bank account identified below:

Account Number: \_\_\_\_\_

Financial Institution Name: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_

***(Attach voided check in the space provided at the end of the Agreement.)***

**Section 2: BACKGROUND INFORMATION**

- 1. Have you ever had your insurance license suspended or revoked? .....  Yes  No
- 2. Is your insurance license currently restricted or under investigation?.....  Yes  No
- 3. Have you ever been refused a surety bond or had a claim paid for you? .....  Yes  No
- 4. Have you ever filed for bankruptcy? .....  Yes  No
- 5. Have you ever been convicted of a felony or misdemeanor, excluding traffic violations? .....  Yes  No
- 6. Are you at present involved in any litigation or administrative proceeding related to the insurance business or are there unsatisfied judgments against you? .....  Yes  No
- 7. Have you ever been listed as debarred, excluded or otherwise ineligible for participation in federal health care programs? .....  Yes  No

***(Please explain any "yes" answers on a separate sheet, inclusive of dates and attach to this Application.)***

**II. AGREEMENT**

I request approval to contract with the Company as an agent ("Agent") to market and solicit sales of Medicare Advantage Plans ("MA or MA-PD") and/or Prescription Drug Plans ("PDP") on behalf of the Company. Upon the Company's approval of this Agreement, by signature of a duly authorized officer of the Company below, this will become a binding contract between the Company and Agent and Agent shall be authorized by the Company to act on behalf of the Company in accordance with the terms and conditions set forth below. Agent agrees as follows:

- 1. Agent's authority hereunder shall be limited to marketing, soliciting, and selling memberships for the Company's Medicare MA, MA-PD and PDP.
- 2. Agent hereby represents and warrants that Agent has all required licenses, certifications, and/or registrations to perform the services contemplated by this Agreement, including but not limited to current insurance license, which is in good standing in the state(s) in which the agent intends to market, solicit and sell memberships.
- 3. Except as disclosed in the Application hereto, Agent represents and warrants that Agent has neither been, nor will be during the term of this Agreement: (i) listed as debarred, excluded or otherwise ineligible for participation in federal health care programs; or (ii) convicted of a felony or misdemeanor, excluding traffic violations. If at any time Agent becomes aware of any violation of this representation and warranty, Agent agrees to notify the Company in writing immediately.
- 4. Agent represents and warrants that all information provided in the Application hereto is true, accurate and complete to the best of Agent's knowledge.
- 5. Agent agrees that all services performed by Agent pursuant to this Agreement shall be consistent with and shall comply with the contractual provisions imposed upon the Company under the contract between the Company and the Centers for Medicare and Medicaid Services ("CMS") whereby the Company offers one or more MA, MA-PD and PDP plans in a specified service area or region. Agent will at all times furnish the services required of Agent by this Agreement in a manner that permits the Company to comply with such contract with CMS.
- 6. Agent hereby agrees to become completely familiar with and to comply fully with:
  - a. the rules, guidelines, regulations, policies and procedures of the Company;
  - b. Part D of Title XVIII of the Social Security Act and all rules and regulations related to Part D that are from time to time adopted by CMS (collectively, "Part D");
  - c. all other federal health care laws (including civil monetary penalty laws);
  - d. applicable state laws, including the insurance laws of each state in which Agent markets, solicits, and sells on behalf of the Company;
  - e. CMS policies, including CMS' marketing guidelines, as may be amended from time to time; and
  - f. all other applicable laws, regulations, guidelines, or policies.
- 7. Agent understands that in marketing, soliciting, and selling enrollments for MA, MA-PD and PDP membership, Agent is not permitted to, and will not:
  - a. engage in any marketing and solicitation of enrollments or distribution of any marketing materials prior to such date(s) as may be specified by CMS;
  - b. engage in door-to-door canvassing or cold calling, visiting prospects only when invited to do so;
  - c. engage in telephone solicitation except in strict compliance with federal and state "do not call" regulations and other applicable federal and state laws. In addition, Agent will utilize only telephone scripts approved in writing by the Company prior to the utilization of any such script;
  - d. make any inquiry as to the health of the prospective member (except to assist the prospective member to understand whether PDP membership would be advantageous for him or her) unless inquiring if MA, MA-PD enrollee has end-stage renal disease - ESRD;
  - e. in any way seek to limit the MA, MA-PD membership Agent sells by reason of the health condition or health history of the prospective member, except as noted in 7(d);
  - f. use any marketing material -- including brochures; illustrations; examples; flip charts; handouts; scripts; radio, television and print ads; internet advertising; and any other material primarily intended to attract or appeal to prospective members

- for MA, MA-PD or PDP membership -- other than marketing material supplied by, or approved in writing by the Company for use in marketing, soliciting, and selling enrollments for MA, MA-PD or PDP membership;
- g. alter, modify, waive or change any of the terms, rates or conditions of any advertisement, marketing materials, scripts (including, but not limited to, telephone scripts and other sales scripts), receipts, policies or contracts of the Company, in any respect;
  - h. discriminate based on race, ethnicity, religion, gender, sexual orientation, health status or geographic location;
  - i. offer or give to any prospective member any gift or premium except in compliance with the rules, guidelines and regulations of CMS and other applicable health care laws; or
  - j. market, solicit, or sell for the Company in any state: 1) where Agent is not duly authorized by the Company; 2) where Agent does not have the required licenses; or, 3) until Agent's authority to represent the Company is confirmed by the Company.
8. No oral promises or representations shall be binding nor shall this Agreement be modified except in writing, executed on behalf of the Company by a duly authorized officer of the Company and accepted by Agent, either by Agent's signature, or by placing business with the Company following the effective date of such amendment. The failure of the Company to insist on compliance by Agent with any of the obligations imposed by this Agreement shall not affect any other obligations of Agent contained herein or constitute a waiver of the rights of the Company.
  9. Agent understands that Agent must comply with all applicable laws and all CMS policies to ensure that Medicare beneficiaries receive truthful, accurate and complete information.
  10. Agent shall permit the Company to monitor the performance of Agent on an on-going basis, in any manner that the Company reasonably deems appropriate for compliance with the Company's obligations to CMS. The rights reserved for the Company pursuant to this provision shall not relieve Agent of obligations under this Agreement.
  11. Agent must attend a training program (or the training programs) and/or review in detail training material established by the Company regarding the MA, MA-PD or Part D marketing guidelines and other applicable laws.
  12. As compensation for Agent's services, Agent shall be entitled to the commission set forth on the Commission Schedule attached to this Agreement, less any commission payable to agents contracted under Agent with the Company.
  13. Commissions advanced to Agent by the Company, if approved, are considered loans and are provided only when a membership is deemed eligible by CMS. The Company will charge interest on all outstanding loans and such interest rates may be adjusted from time to time by the Company. You manager and the Company reserve the right to adjust the commission advance period.
  14. If at any time Agent is indebted to the Company or to an Affiliate Company, Agent authorizes and directs the Company to pay commissions due to Agent hereunder to the Company or to the Affiliate Company to which Agent owes such debt (whichever is applicable). Agent also hereby authorizes any Affiliate Company to pay any commissions to which Agent is entitled to the Company to satisfy any debt Agent owes the Company hereunder. All debts due the Company, including advances to the Agent or sub-agents, are payable upon demand and are not recoverable solely from commissions or other compensation.
  15. In accordance with the requirements of CMS for disenrollment and/or Company-applied guidelines, if a MA, MA-PD member disenrolls after the effective date of the enrollment, all commissions paid, credited, or advanced for such membership shall be charged back.
  16. Agents representing the Company who replace any inforce coverage issued by the Company or another Affiliate Company will receive no commission on the replaced coverage.
  17. Agent shall not, in any event (including, without limitation, nonpayment of any compensation provided for by this Agreement) bill, charge, seek compensation or remuneration or reimbursement from, hold responsible, or otherwise have any recourse against any Medicare beneficiary (whether an actual or prospective enrollee) for any amounts otherwise payable by the Company.
  18. Agent must make the following disclosure, prior to enrollment or at the time of enrollment, in writing, to a potential enrollee: "The person that is discussing plan options with you is contracted with the Company. The person may be compensated based on your enrollment in a plan."
  19. The only relationship between Agent and the Company shall be as an independent contractor representing the Company. Nothing contained herein shall be construed to create an employer/employee relationship.
  20. In accordance with prudent business practices, Agent shall keep and maintain, or arrange for the maintenance of, accurate, complete, and timely books, records and accounts of all transactions occurring as part of the furnishing of marketing and promotional services to the Company pursuant to this Agreement. Agent agrees that, in accordance with Part D, the U.S. Department of Health and Human Services ("HHS"), the Comptroller General, or their designees have the right to inspect, evaluate, and audit any of Agent's pertinent contracts, books, documents, papers, and records involving transactions related to CMS' contract with the Company. In addition HHS', the Comptroller General's, or their designee's right to inspect, evaluate, and audit any pertinent information for any particular contract period exists through ten (10) years from the final date of the contract period or from the date of completion of any audit, whichever is later. As such, Agent agrees to make its books and other records available in accordance with CMS and Part D requirements. Further, Agent agrees that to the extent other records are necessary to assist the Company in complying with its obligations under law, Agent shall retain, or arrange for the retention of, such records and/or make such records available to the Company.
  21. Agent shall be responsible for complying with all applicable state and federal privacy and security requirements. Accordingly, Agent shall comply with all applicable provisions of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") relating to the privacy and security of individually identifiable health information and all regulations adopted in connection therewith. Consistent with these obligations, the parties consistent with these obligations and as evidenced by Agent's signature to this Agreement, Agent hereby agrees to comply with the terms and conditions set forth in the HIPAA Business Associate Contract Privacy Addendum attached hereto as an Addendum and incorporated herein by reference. I have entered into a HIPAA-compliant business associate agreement, attached as Exhibit A and incorporated by reference into this Agreement, to address the handling of protected health information.

22. The Company may cancel this Agreement and your authority to represent the Company at any time, subject to 30 days written notice to Agent, unless the termination is "for cause" (as defined below), in which case the termination may be immediate upon notice to Agent. If terminated for cause, no further commissions are payable and all unearned commissions, advances and other debts are immediately due and payable to the Company.
23. The Company may terminate this Agreement for cause if Agent:
  - a. Breaches this Agreement and/or if any of the representations or warranties made by Agent in the Agreement are deemed false when made or become false during the term of this Agreement;
  - b. Has Agent's insurance license, or any other required license, suspended or revoked in any state;
  - c. Systematically replaces or attempts to replace by inducing any member/policyholder of the Company or an Affiliate Company to lapse, replace or otherwise terminate any membership/policy issued by the Company or an Affiliate Company;
  - d. Discloses any list, file, card or record containing the name of any member of the Company or an Affiliate Company without the prior written consent of the Company or the applicable Affiliate Company;
  - e. Does not perform satisfactorily in accordance with this Agreement, as determined solely by CMS or the Company. Alternatively, the Company or CMS shall have the right to institute corrective action plans or seek other remedies or curative measures with respect to Agent's services and duties under this Agreement;
  - f. Fails to pay on demand any monies due the Company or an Affiliate Company or otherwise withholds funds due to the Company;
  - g. Becomes debarred, excluded or otherwise ineligible for participation in federal health care programs;
  - h. Engages in fraudulent activity; or
  - i. Is convicted of any crime.
24. This Agreement and any amendments hereto shall be governed and construed in accordance with the laws of the State of Florida. Any dispute, controversy or claim between the parties relating to this Agreement or an alleged breach of these sections which the parties are unable to resolve amicably shall be submitted to and settled by arbitration pursuant to the Commercial Rules of the American Arbitration Association (AAA). The Arbitration shall be held in Lake Mary, Florida or such location to be selected by mutual agreement of both parties and shall be conducted by a panel of three arbitrators who are knowledgeable of the accident and health insurance industry. The arbitrators shall be selected from a random list of nine arbitrators provided by the AAA, from AAA's certified arbitrator list. Each party shall select one arbitrator from the AAA list. These arbitrators shall select a third arbitrator from the list. Each of the parties shall bear its own costs and expenses of the arbitration and shall share equally the fees and expenses of the arbitrators; provided, however, that the arbitrators shall have the authority, in their sole discretion, to require the non-prevailing party in the arbitration to pay or reimburse the prevailing party for, as the case may be, all fees and expenses of the arbitrators and reasonable attorney's fees, expenses and costs, or any portion thereof, as the arbitrators deem appropriate, incurred by the prevailing party.
25. In the event that any provision of this Agreement is deemed to be invalid or unenforceable, it is the intent of the parties that the remainder of this Agreement shall remain in full force and effect.
26. If at any time during the term of this Agreement there is a change in pertinent laws, regulations, or interpretations of such laws or regulations, the parties agree to renegotiate this Agreement to comply with such changes.
27. Agent shall not obligate the Company to, nor incur, any expense on Agent's behalf without prior authorization from an officer of the Company.
28. If this Agreement is terminated by Agent or by the Company not "for cause" (as defined above), or should Agent die, or become totally disabled while this Agreement is in force, Agent, or in the case of Agent's death, Agent's surviving spouse, heirs or legal representatives shall, except as provided in this Agreement, receive all commissions that are due, or may become due, and have not yet been paid in accordance with the Commission Schedule attached hereto for as long as such commissions due exceed \$600 on an annualized basis. However, as stated above, if this Agreement is terminated "for cause", then no further commissions are payable to Agent, Agent's surviving spouse, heirs or legal representatives.
29. Whenever Agent, if secured by a Sales Manager pursuant to this Agreement, fails to be entitled to the renewal commissions to which he or she would have been otherwise entitled under this Agreement with the Company, all such renewal commissions shall, during the term of this Agreement, be paid to the Sales Manager provided the Sales Manager continues to service the Agent's business in force with the Company and makes a diligent effort to conserve such business. A failure to comply with this provision will deny the Sales Manager the right to any such renewal commissions. Notwithstanding anything contained herein, Sales Manager shall not have the right to the renewal commissions in cases where the Agent's total renewal commission is less than \$600 per year on an annualized basis.
30. Agent shall not delegate or subcontract any service, activity, or other obligation required of him/her under this Agreement to any other person, without the prior written consent of the Company (the "Consent"). Any such delegation or subcontract, if Consented to by the Company, shall be performed by the delegate in accordance with the Company's contractual obligations to CMS and Agent's contractual obligation under this Agreement (including this provision). Any attempted delegation or subcontract by Agent without the Company's Consent shall be null and void and of no force or effect. Agent agrees that any agreements of Agent with respect to a delegation or subcontract for which the Company has provided Consent shall be in writing, signed by the parties thereto, and in compliance with all applicable laws and regulations. Such agreement must specify in writing: (1) the delegated activities and reporting responsibilities; (2) the Company's right to monitor on an ongoing basis the performance of the parties; and (3) that subcontractor must comply with all applicable federal and state laws, regulations, and CMS instructions. In the event that a delegate of Agent fails or is unable, for any reason whatsoever, to perform in a satisfactory manner any services, activities or other obligations that have been delegated or subcontracted, then the Company or CMS shall have the right to suspend, revoke or terminate such delegation effective upon the date set forth in a written notice furnished to Agent.



HIPAA BUSINESS ASSOCIATES  
CONTRACT PRIVACY ADDENDUM

## I. GENERAL PROVISIONS

**Section 1. Effect.** The terms and provisions of this Addendum are incorporated in and shall supersede any conflicting or inconsistent terms and provisions of the Agreement to which this Addendum is attached, including all exhibits or other attachments thereto and all documents incorporated therein by reference (this "Agreement"), effective as the effective date of the agent's contract into the company. Any ambiguity in this Addendum shall be resolved to permit the Company to comply with the HIPAA Privacy Standards.

**Section 2. Amendment.** Agent and the Company agree to amend this Addendum to the extent necessary to allow either Agent or the Company to comply with the Privacy Standards (45 C.F.R. Parts 160 and 164), the Standards for Electronic Transactions (45 C.F.R. Parts 160 and 162) and the Security Standards (45 C.F.R. Part 142) (collectively, the "Standards") promulgated or to be promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and other applicable federal or state regulations or statutes. Agent and the Company will fully comply with all applicable Standards and other applicable federal or state regulations or statutes and will amend this Addendum to incorporate any material required by the Standards, such regulations or statutes.

**Section 3. Definitions.** Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in Part IV of this Addendum.

## II. OBLIGATIONS OF AGENT

**Section 1. Use and Disclosure of Protected Health Information.** Agent may use and disclose Protected Health Information only as required to satisfy its obligations under this Agreement, as permitted herein, or as required by law, but shall not otherwise use or disclose any Protected Health Information. Agent shall not, and shall ensure that its directors, officers, employees, contractors and agents do not, use or disclose Protected Health Information in any manner that would constitute a violation of the Privacy Standards if done by the Company, except that Agent may use Protected Health Information if necessary (i) for the proper management and administration of Agent, (ii) to carry out the legal responsibilities of Agent or (iii) to provide Data Aggregation services relating to the health care operations of the Company. Agent hereby acknowledges that, as between Agent and the Company, all Protected Health Information shall be and remain solely the property of the Company, including any and all forms thereof developed by Agent in the course of fulfilling its obligations pursuant to this Agreement. Agent further represents that, to the extent Agent requests the Company to disclose Protected Health Information to Agent, such request is only for the minimum Protected Health Information necessary for the accomplishment of Agent's purpose.

**Section 2. Safeguards Against Misuse of Information.** Agent agrees that it will use all appropriate safeguards to prevent the use or disclosure of Protected Health Information other than pursuant to the terms and conditions of this Addendum.

**Section 3. Agent's Duty to Mitigate.** Agent agrees to mitigate to the extent practicable any harmful effect that is known to Agent of a use or disclosure of Protected Health Information by Agent in violation of this Addendum.

**Section 4. Reporting of Violations.** Agent shall, within thirty (30) days of becoming aware of any use or disclosure of Protected Health Information not provided for by this Addendum by Agent or any of its officers, directors, employees, contractors or agents, report such use or disclosure to the Company.

**Section 5. Agreements by Third Parties.** Agent shall enter into and maintain an agreement with each agent and subcontractor that has or will have access to Protected Health Information under which the agent or subcontractor is legally bound by the same restrictions with respect to Protected Health Information that apply to Agent pursuant to this Addendum.

**Section 6. Access to Information.** Within ten (10) days of a request by the Company for access to Protected Health Information about an individual contained in a Designated Record Set, Agent shall make available to the Company such Protected Health Information. In the event any individual requests access to his or her Protected Health Information directly from Agent, Agent shall within two (2) days forward such request to the Company. Any denials of access to the Protected Health Information requested shall be the responsibility of the Company.

**Section 7. Availability of Protected Health Information for Amendment.** Within thirty (30) days of receipt of a request from the Company for the amendment of an individual's Protected Health Information or a record regarding an individual contained in a Designated Record Set, Agent shall provide such information to the Company for amendment and incorporate any such amendments in the Protected Health Information as required by 45 C.F.R. §164.526. Any denials of requested amendments shall be the responsibility of the Company.

**Section 8. Documentation of Disclosures.** Agent agrees to document such disclosures of Protected Health Information and information related to such disclosures as would be required of the Company 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.

**Section 9. Accounting of Disclosures.** Within thirty (30) days of receipt of notice from the Company that it has received a request for an accounting of disclosures of Protected Health Information, other than disclosures excepted under 45 C.F.R. §164.528(a), Agent shall provide to the Company the information in Agent's possession that is required for the Company to make the accounting required by 45 C.F.R. §164.528(b) and (c). At a minimum, Agent shall provide the Company with the following information for each disclosure: (i) the date of the disclosure, (ii) the name of the entity or person who received the Protected Health Information and, if known, the address of such entity or person, (iii) a brief description of the Protected Health Information disclosed, and (iv) a brief statement of the purpose of such disclosure which includes an explanation of the basis for such disclosure. In the event an individual's request for an accounting is delivered directly to Agent, Agent shall within two (2) days forward such request to the Company. Agent hereby agrees to implement an appropriate recordkeeping process to enable it to comply with the requirements of this section.

**Section 10. Availability of Books and Records.** Agent hereby agrees to make its internal practices, books and records including policies and procedures relating to the use and disclosure of Protected Health Information available to the Secretary for purposes of determining the Company's compliance with the Privacy Standards.

**Section 11. Indemnification.** Agent hereby agrees to indemnify and hold the Company, its employees, officers and directors harmless from and against any and all liability, payment, loss, cost, expense (including reasonable attorneys' fees and costs), or penalty incurred by the Company, its employees, officers or directors in connection with any claim, suit, or action asserted against such entity or person resulting from the failure to fulfill any obligation of this Addendum by Agent, its agents or subcontractors.

**Section 12. Insurance.** The Company strongly encourages each Agent to obtain and maintain during the term of this Agreement liability insurance covering claims based on a violation of the Standards or any applicable state law or regulation concerning the privacy of health information and claims based on its obligations pursuant to Section 9 of Part II of this Addendum in an amount not less than an amount sufficient to indemnify the company in the event of a breach. Such insurance should be in the form of occurrence based coverage and should name the Company as an additional named insured.

**Section 13. Notice of Request for Data.** Agent agrees to notify the Company within five (5) business days of Agent's receipt of any request, subpoena, or judicial or administrative order to disclose Protected Health Information. To the extent that the Company decides to assume responsibility for challenging the validity of such request, subpoena or order, Agent agrees to cooperate fully with the Company in such challenge.

**Section 14. Injunction.** Agent hereby agrees that the Company will suffer irreparable damage upon Agent's breach of its obligations under this Addendum and that such damages shall be difficult to quantify. Agent hereby agrees that the Company may file, and Agent will not contest, an action for an injunction to enforce the terms of this Addendum against Agent, in addition to any other remedy the Company may have.

### III. TERMINATION OF AGREEMENT WITH AGENT

**Section 1. Termination Upon Breach of Provisions Applicable to Protected Health Information.** Any other provision of this Agreement notwithstanding, this Agreement may be terminated by the Company upon five (5) business days prior written notice to Agent in the event that Agent materially breaches any obligation of this Addendum and fails to cure the breach within such five (5) day period; provided, however, that in the event that termination of this Agreement is not feasible, in the Company's sole discretion, Agent hereby acknowledges that the Company shall have the right to report the breach to the Secretary.

**Section 2. Return or Destruction of Protected Health Information upon Termination.** Upon termination of this Agreement, Agent shall either return to the Company or destroy all Protected Health Information which Agent then maintains in any form. Agent shall not retain any copies of the Protected Health Information. Notwithstanding the foregoing, to the extent that the Company agrees that it is not feasible for Agent to return or destroy any Protected Health Information, the provisions of this Addendum shall survive termination of this Agreement and Agent shall limit any further uses and disclosures of such Protected Health Information to the purpose or purposes which make the return or destruction of such Protected Health Information infeasible.

**Section 3. The Company's Right of Cure.** The Company shall have the right to cure, at the expense of Agent, any breach of Agent's obligations under this Addendum. The Company shall give Agent notice of its election to cure any such breach and Agent shall cooperate fully in the efforts by the Company to cure Agent's breach. Agent shall pay for such services of the Company within thirty (30) days of receipt of the Company's request for payment.

**Section 4. Transition Assistance.** Following the termination of this Agreement for any reason, Agent agrees to provide transition services for the benefit of the Company, including the continued provision of its services required under this Agreement until notified by the Company that another provider of services is able to take over the provision of such services and the transfer of the Protected Health Information and other data held by Agent related to its services under this Agreement has been completed.

### IV. DEFINITIONS FOR USE IN THIS ADDENDUM

**"Data Aggregation"** shall mean the combining of Protected Health Information by Agent with the Individually Identifiable Health Information created or received by Agent in its capacity as a business associate of another covered entity, to permit data Analysis that relate to the healthcare operations of the Company and the other covered entity.

**"Designated Record Set"** shall mean the enrollment, payment, claims adjudication, and cost or medical management record systems maintained by or for the Company, or any other group of records maintained by or for the Company and used, in whole or in part, by or for the Company to make decisions about individuals. As used herein the term "record" means any item, collection, or grouping of information that includes Protected Health Information and is maintained, collected, used, or disseminated by or for the Company.

**"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 (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

**"Privacy Standards"** shall mean the Standards for Privacy of Individually Identifiable Health Information, 45 C.F.R. Parts 160 and 164.

**"Protected Health Information"** shall mean Individually Identifiable Health Information transmitted or maintained in any form or medium that Agent creates or receives from or on behalf of the Company in the course of fulfilling its obligations under this Agreement. "Protected Health Information" shall not include (i) education records covered by the Family Educational Rights and Privacy Act, as amended, 20 U.S.C. §1232g, and (ii) records described in 20 U.S.C. §1232g(a)(4)(B)(iv).

**"Secretary"** shall mean the Secretary of the United States Department of Health and Human Services.

Except as specifically amended hereby, the Agreement shall remain in full force and effect.

## Request for Taxpayer Identification Number and Certification

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

Print or type  
 See Specific Instructions on page 2.

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

### Part I Taxpayer Identification Number (TIN)

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

Social security number
+
OR
Employer identification number
+

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

### Part II Certification

Under penalties of perjury, I certify that:

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

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

<b>Sign Here</b>	Signature of U.S. person ▶	Date ▶
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Additional information regarding completion of Form W-9 is available at [www.irs.gov/pub/irs-pdf/fw9.pdf](http://www.irs.gov/pub/irs-pdf/fw9.pdf).