

**January 1, 2010 Amendment  
to the  
Agent Agreement for Individual & Group Products**

This January 1, 2010 Amendment to the Agent Agreement for Individual & Group Products (the “**Amendment**”) amends the Agent Agreement for Individual & Group Products between Asuris Northwest Health ( “**Asuris**”) and [INSERT AGENCY NAME] (the “**Agent**”) previously entered into by the parties (the “**Agreement**”).

**RECITALS**

- A. Asuris and Agent previously entered into the Agreement.
- B. Section 10 of that Agreement provides that Asuris may amend the Agreement with thirty (30) days advance written notice to Agent.
- C. Asuris is amending the Agreement because of new federal requirements and other desired changes.

**AGREEMENT**

In consideration of the foregoing and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- 1. **Agreement Title.** The word “Agent” in the title of the Agreement is changed to “Producer”, so that the new title of the Agreement reads: “Producer Agreement for Individual & Group Products”.
- 2. **“Agent” Replaced with “Producer”.** Each occurrence of the defined term “Agent” in the Agreement is replaced with the defined term “Producer”.
- 3. **Responsibilities Related to Applications.** Section 2(C) of the Agreement is amended to read in its entirety as follows:

“ The Producer agrees to act with due diligence to solicit and secure applications for Asuris membership contracts and, where the Producer has collected initial premium, to promptly remit the initial premium to Asuris. The Producer may not sign any application on behalf of any applicant. For all applications, the Producer will advise applicants to answer all application questions completely and truthfully. If an Producer has reason to believe an applicant has answered or intends to answer an application in an incomplete or untruthful manner, the Producer will advise the applicant to answer all questions completely and truthfully, and will inform Asuris of any application submitted to

Asuris that the Producer has reason to believe may contain incomplete or inaccurate information. For applications for individual products, the Producer will emphasize to applicants the importance of answering health statement questions as accurately as possible.”

**4. Commission Statement Accuracy.** The first 4 sentences of Section 3(B) of the Agreement are deleted and replaced with the following:

“ Regence agrees to provide the Producer a monthly commission statement describing the products sold, the premiums produced and the commissions paid. Regence will not be obligated to pay the Producer any additional amounts to correct for any errors or omissions contained on the commission statement unless the Producer submits a written objection to Regence within one hundred and eighty (180) days of the date the commission statement was sent to the Producer that contained an alleged error or omission. For the purposes of the previous sentence, an omission occurs when a commission statement does not include an amount of commission alleged to be owed to Producer for any account, whether that account is shown on the commission statement or not, within two months after the date that Regence has received the premium associated with the commission. Producer will immediately notify Regence of any payments made by Regence to which the Producer is not entitled under this Agreement, and Producer will immediately refund those amounts to Regence. Regence may offset any amounts Producer owes to Regence against future commissions that may become due to the Producer.”

**5. Producers Affiliated with Producer.**

Section 7(A) of the Agreement is amended to read in its entirety as follows:

“ The names of all individuals, independently licensed as producers and employed by or affiliated with Producer, are listed on Exhibit C. Asuris in its sole discretion may accept, reject, or terminate the appointment of any producer listed on Exhibit C at any point during the term of this Agreement. ”

A new Section 9(D) is added to the Agreement and reads in its entirety as follows:

“ Asuris may apply the termination provisions of this Section 9 to the Producer or to any individually-appointed producers as set forth in Section 7(A).”

**6. Withholding.** A new Section 9(E) is added to the Agreement and reads in its entirety as follows:

“ If the Producer or any of Producer’s appointed producers set forth on Exhibit C breach any provision of the Agreement, in lieu of solely

terminating this Agreement as set forth in Section 9(B), Asuris may in its sole discretion also undertake other forms of relief in addition to or instead of termination, including but not limited to withholding some or all of the commissions owed to Producer by Asuris until the breach is cured and Asuris is made whole for any damages suffered by Asuris as a result of the breach.”

7. **Production Requirements.** A new Section 2(R) is added to the Agreement and reads in its entirety as follows:

“ The Producer will meet any production requirements established by Asuris for the Producer as set forth to the Producer writing from time to time by Asuris.”

8. **Producer Commission Schedule.** Section 3(A) of the Agreement is amended to read in its entirety as follows:

“ Unless otherwise agreed by Asuris in writing, the Producer will receive a monthly commission on all its business as defined in the Producer commission schedule, the current version of which is attached as Exhibit A. Asuris may update the Producer commission schedule from time to time at Asuris’s sole discretion. In addition to any other methods permitted by this Agreement, Asuris may notify Producer of any updates to the commission schedule by sending an email to the Producer and posting the updated commission schedule on Asuris’s producer web site. Producer agrees to check the Asuris Producer web site for updates to the commission schedule on a regular basis, but no less than once a month. The Producer commission schedule may impose additional terms, conditions, and limitations to those set forth in this Agreement. Asuris may also establish additional bonus programs from time to time that entitle Producer to additional compensation. To be eligible for any such additional compensation, Producer agrees to meet all of the terms of this Agreement, plus any additional terms, conditions, or restrictions as set forth in a separate written description of the bonus program.”

9. **Electronic Communications.** A new Section 19(C) is added to the agreement and reads in its entirety as follows:

“ Electronic Communications. Producer is required to maintain a valid email address to which Asuris may send notices under this Agreement. Producer will provide to Asuris the name, phone number, and email address of every affiliated producer listed on Schedule C. Producer is required to regularly check email, as well as information posted on the Asuris producer web site. Producer agrees to promptly notify Asuris of any changes to email or other address information. Notwithstanding anything to the contrary, Asuris will be deemed to meet its notice requirements if Asuris sends the Producer an email to the last email address provided by the Producer to Asuris. Producer agrees to respond to any additional requests for information to Asuris.”

**10. Sales of Medicare Products.** A new Section 7(E) is added to the agreement and reads in its entirety as follows:

“ Sales of any Medicare products, including Medicare Advantage and Medicare Prescription Drug products, require additional advanced testing and certification by Asuris. No Producer will attempt to offer, sell, or solicit any Medicare products unless the Producer has met the additional certification requirements set forth by Asuris in separate documentation. Producer will regularly monitor and ensure that both Producer and any of Producer’s independently-licensed producers employed by or affiliated with Producer comply with all Medicare laws, rules, and agency interpretations, as well as Asuris’s policies. Producer will not keep for itself any Medicare-related compensation that is required to be paid to in whole or in part to any of Producer’s independently-licensed producers employed by or affiliated with Producer. Producer agrees that any commission amounts for the sale of Medicare products may be set forth in a separate schedule posted on Asuris’s web site, or provided to Producers that receive the additional certification, or both.”

**11. Errors and Omissions Coverage.** Section 14(C) is amended to read in its entirety as follows:

“ The Producer shall require each of its authorized producers to maintain errors and omissions liability insurance in the minimum amount of One Million Dollars (\$1,000,000.00) or the Producer will provide that level of coverage under the Producer’s errors and omissions liability policy for each of its producers. If the producer maintains his/her errors and omissions liability insurance, the Producer shall require each of its authorized producers to provide notification to the Producer of any change in, or cancellation of, the producer’s errors and omissions liability insurance.”

**12. Commission Schedule – Exhibit A.** The exhibit to the Agreement titled “Exhibit A Commission Schedule” is deleted and replaced in its entirety with the attachment to this Amendment titled “Exhibit A Commission Schedule”.

13. **Updated Business Associate Addendum – Exhibit B.** The addendum to the Agreement titled “Exhibit B Business Associate Addendum” is deleted and replaced in its entirety with the attachment to this Amendment titled “Exhibit B Business Associate Addendum”.
14. This Amendment is effective as of January 1, 2010.

All other terms and conditions of the Agreement remain the same and in full force and effect.

**EXHIBIT A**

**COMMISSION SCHEDULE**

## EXHIBIT B

### BUSINESS ASSOCIATE ADDENDUM

This Addendum modifies the agreement between the parties (the Agreement) in which The Asuris Group, or any company that is owned or controlled by The Asuris Group (collectively referred to as Asuris), has contracted with Producer for the provision of services to, or on behalf of, Asuris.

#### RECITALS

- A. The parties agree that Producer must receive from Asuris or create, maintain, and use Personal Information on behalf of Asuris in order to perform its obligations to Asuris under the Agreement.
- B. The parties desire to bring the Agreement into compliance with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 CFR Parts 160 and 164), the requirements of all insurance commissioner regulations implementing Title V of the Gramm-Leach-Bliley Act (15 USC § 6801 *et seq.*) that are applicable to Producer's relationship with Asuris, and the applicable provisions of the American Recovery and Reinvestment Act of 2009 and its implementing regulations ("ARRA").

#### TERMS AND CONDITIONS

- 1. **Definitions.** Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in 45 CFR § 160.103, 164.103, and 164.501 or in ARRA. A regulatory reference in this Addendum means the section as in effect or as amended, and for which compliance is required.
  - 1.1 **Individual.** Individual shall have the same meaning as the term "individual" in 45 CFR § 160.103 and shall include a person who qualifies as a personal representative in accordance with 45 CFR § 164.502(g).
  - 1.2 **Personal Information.** Personal information means any information created for or received from Asuris under the Agreement from which the identity of an Individual can reasonably be determined, and includes, but is not limited to, all information within the statutory meaning of "Protected Health Information" (45 CFR § 160.103) and "Nonpublic Personal Financial Information" as defined in the insurance commissioner regulations implementing the Gramm-Leach-Bliley Act Title V that are applicable to Asuris's relationship with Business Associate (collectively referred to as "Personal Information"). Personal Information includes information maintained or transmitted in any form, electronic or otherwise.
  - 1.3 **Privacy Rule.** Privacy Rule means the standards for privacy set forth in 45 CFR Parts 160 and 164, Subparts A and E.
  - 1.4 **Required By Law.** Required by Law shall have the same meaning as the term "required by law" in 45 CFR § 164.103.

## **2. Obligations and Activities of Producer.**

**2.1 Permitted Uses and Disclosures.** Producer shall not use or further disclose Personal Information other than as Required by Law or as permitted in this section as follows:

**2.1.1 Use or disclose.** Producer may use or disclose Personal Information to perform functions, activities, or services for, or on behalf of, Asuris as specified in the Agreement, provided that such use or disclosure would not violate the Privacy Rule if done by Asuris;

**2.1.2 Use.** Producer may use Personal Information for the proper management and administration of the Producer or to carry out the legal responsibilities of the Producer;

**2.1.3 Disclose.** Producer may disclose Personal Information for the proper management and administration of Producer, provided such disclosures are Required by Law, or Producer obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and be used or further disclosed only as Required by Law or for the purpose for which it was disclosed to the person, and the person agrees to notifies the Producer of any instances of which the person is aware in which the confidentiality of the information has been breached; or

**2.1.4 Use.** Producer may use Personal Information to provide Data Aggregation services to Asuris as permitted by 42 CFR § 164.504(e)(2)(i)(B).

**2.2 Safeguards.** Producer shall use appropriate safeguards to prevent use or disclosure of the Personal Information other than as provided for by this Addendum.

**2.3 Mitigate Harmful Effects.** Producer shall mitigate, to the extent practicable, any harmful effect that is known to Producer of a use or disclosure of Personal Information in violation of the requirements of this Addendum.

### **2.4 Reporting Requirements.**

**2.4.1 Non-Permitted Use or Disclosure.** Producer shall report to Asuris any use or disclosure of the Personal Information not provided for by this Addendum within three (3) business days of becoming aware of such use or disclosure. In addition, Producer shall report any "Breach" of "Unsecured Protected Health Information" or "Personal Information" as defined in ARRA and any other applicable breach notification laws within three (3) business days and shall cooperate with Asuris's investigation and mitigation of the Breach. Producer shall reimburse Asuris for the costs associated with required notification of individuals whose Personal Information was subject to Breach by Producer.

- 2.4.2 Security Incidents.** Producer shall report any security incident involving electronic Personal Information of which it becomes aware as specified herein. "Security Incident" means the attempted or successful unauthorized access, use, disclosure, modification, or destruction of information or interference with system operations in an information system. Producer shall report a successful Security Incident within three (3) business days of becoming aware of such Security Incident. Producer shall report an unsuccessful Security Incident upon request. Asuris shall not request a report of unsuccessful security incidents more often than once per month.
- 2.5 Producers and Subcontractors.** Producer shall ensure that any agent of the Producer, including a subcontractor, to whom the Producer provides Personal Information received from, or created or received by Business Associate on behalf of, Asuris shall agree to the same restrictions and conditions that apply through this Addendum to Producer with respect to such information.
- 2.6 Inspection of Books and Records.** Producer shall make internal practices, books, and records relating to the use and disclosure of Personal Information received from, or created or received by Producer on behalf of, Asuris available to the Asuris, or at the request of the Asuris to the Secretary of the U.S. Department of Health and Human Services ("Secretary"), in a time and manner designated by the Asuris or the Secretary, for purposes of the Secretary determining Asuris's compliance with the Privacy Rule.
- 2.7 Access.** Producer shall provide access, at the request of Asuris, and in a reasonable time and manner designated by Asuris, to Personal Information, to Asuris or, as directed by Asuris, to an Individual in order to meet the requirements under 45 CFR § 164.524 and applicable provisions of ARRA. Producer shall make access available in an electronic format when requested by Asuris.
- 2.8 Amendment.** Producer shall make any amendment(s) to Personal Information as directed by Asuris, or as requested by an Individual pursuant to 45 CFR § 164.526, in a reasonable time and manner designated by Asuris.
- 2.9 Accountings.** Producer shall document disclosures of Personal Information and information related to disclosures that would be required for Asuris to respond to a request by an Individual for an accounting of disclosures of Personal Information in accordance with 45 CFR § 164.528 and applicable provisions of ARRA. In addition, Producer shall provide the accounting information to Asuris or an Individual, in a reasonable time and manner designated by Asuris, to permit Asuris to respond to a request by an Individual for an accounting of disclosures of Personal Information within the time specified by law.
- 2.10 Standard Transactions.** Producer will not enter into, nor permit its subcontractors or agents to enter into, any trading partner agreement in connection with the conduct of Standard Transactions (as defined in 45 CFR § 162.103) for or on behalf of Asuris that: **(i)** changes the definition, data

condition, or use of a data element or segment in a Standard Transaction; **(ii)** adds any data elements or segments to the maximum defined data set; **(iii)** uses any code or data element that is not permitted in a Standard Transaction; or, **(iv)** changes the meaning or intent of a Standard Transaction or its implementation specification.

**2.11 Security of Electronic Personal Information.** Producer will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Personal Information that it creates, receives, maintains, or transmits on behalf of Asuris, as required under 45 CFR Part 164, Subpart C. Producer shall also develop and implement policies and procedures and meet the documentation requirements of ARRA.

**2.12 Privacy Official.** Business Associate shall send all notices pertaining to Personal Information obligations set forth in this Addendum to the Asuris Privacy Official at P.O. Box 1271, MS E12B, Portland, OR 97207-1271.

**2.13 Evaluation of Security Controls.** Producer shall make its internal security practices, policies, and procedures relating to the security of Asuris Personal Information available to Asuris for evaluation. Such evaluation may include technical and non-technical security auditing and shall occur in a reasonable time and manner designated by Asuris and coordinated with Producer.

**2.14 Minimum Necessary and Limited Data Set.** Producer's use, disclosure or request for Personal Information shall utilize a Limited Data Set if practicable. If a Limited Data Set is impracticable, Producer, in its performance of the functions, activities, services, and operations undertaken for, or on behalf of, Asuris, shall make reasonable efforts to use, disclose and request only the minimum amount of Personal Information necessary to accomplish the intended purpose of the use, disclosure or request.

### **3. Obligations of Asuris.**

**3.1 Restrictions to Personal Information.** Asuris shall notify Producer of any restriction to the use or disclosure of Personal Information that Asuris has agreed to in accordance with 45 CFR § 164.522.

**3.2 Permissible Requests.** Asuris shall not request Producer to use or disclose Personal Information in any manner that would not be permissible under the Privacy Rule if done by Asuris.

### **4. Term and Termination.**

**4.1 Term.** The term of this Addendum shall be the same as the Agreement. Upon termination of the Agreement, the terms of this Addendum shall remain in effect until all of the Personal Information provided by Asuris to Producer, or created or received by Producer on behalf of Asuris, is destroyed or returned to Asuris, or, if it is infeasible to return or destroy Personal Information, protections are

extended to such information, in accordance with the termination provisions in this Section.

- 4.2 Termination for Cause.** Upon Asuris's knowledge of a material breach of this Addendum by Producer, Asuris will have the right to: 1) provide an opportunity for Producer to cure the breach or end the violation and terminate the Agreement if Producer does not cure the breach or end the violation within the time specified in writing by Asuris; or 2) immediately terminate the Agreement if Producer has breached a material term of this Addendum and cure is not possible. In the event Producer has breached the terms of this Addendum and such breach has not been cured, but Asuris determines that termination of the Agreement is not feasible, Asuris may report such breach to the U.S. Department of Health and Human Services.
- 4.3 Effect of Termination.** Upon termination of the Agreement, for any reason, Producer shall return or destroy all Personal Information received from Asuris, or created or received by Producer on behalf of Asuris unless Asuris agrees that the return or destruction of the Personal Information is infeasible. This provision shall apply to Personal Information that is in the possession of subcontractors or agents of Producer.

In the event that Producer believes the return or destruction of the Personal Information is infeasible, Producer shall provide to Asuris notification of the conditions that make return or destruction infeasible. Upon mutual agreement of the Parties that return or destruction of Personal Information is infeasible, Producer shall extend the protections of this Addendum to such Personal Information and limit further uses and disclosures of such Personal Information to those purposes that make the return or destruction infeasible, for so long as Producer maintains such Personal Information. If return or destruction is feasible or becomes feasible, Producer agrees to retain no copies of the Personal Information.

- 5. Indemnification.** Producer shall indemnify and hold harmless Asuris from and against any claim, cause of action, liability, damage, cost or expense, including reasonable attorneys' fees and court or proceeding costs, fee, penalty, fine, arising out of its non-permitted use or disclosure of Personal Information or other breach of this Addendum. This provision shall survive termination of the Agreement.
- 6. Amendment.** The Parties agree to take such action as is necessary to amend this Addendum from time to time as is necessary to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 CFR Parts 160 and 164), and the requirements of all insurance commissioner regulations implementing Title V of the Gramm-Leach-Bliley Act (15 USC § 6801 *et seq.*) and the requirements of ARRA. The parties agree to incorporate this Agreement and any applicable regulations issued pursuant to ARRA.
- 7. Survival.** The respective rights and obligations of Producer under Section 4 of this Addendum shall survive termination of the Agreement.

8. **Supersedure.** This Addendum shall supersede any previous agreement between the parties that was entered into for the purpose of protecting Personal Information.
9. **Interpretation.** Any ambiguity in this Addendum shall be resolved in favor of a meaning that permits Asuris to comply with the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 CFR Parts 160 and 164), and the requirements of all insurance commissioner regulations implementing Title V of the Gramm-Leach-Bliley Act (15 USC § 6801 *et seq.*) and ARRA.