

Business Associate and Electronic Transactions Agreement

Confidentiality of Protected Health and Non-Public Personal Information

This Business Associate and Electronic Transactions Agreement (“Agent Agreement”) is made by and between American Select Insurance Management Corporation (“Corporation”) and you (“Agent”).

1. **Purpose.** The purpose of this agreement is to protect the privacy of PHI and NPI, as defined below.
2. **Definitions.** Terms used in this agreement are defined as follows:
 - a. “Covered Entity” means the insurer(s) for whom corporation manages coverage.
 - b. “Disclose or Disclosure: means the release, transfer, provision of access to, or divulging in any other manner of information outside the entity holding the information.
 - c. “Individual” shall have the same meaning as in 45 C.F.R. § 164.501 and shall include a persona who qualifies as a personal representative in accordance with 45 C.R.F. § 164.502(g).
 - d. “Individually identifiable health information” is health information, including demographic information, collected from an individual, that:
 - i. Is created or received by a health care provider, health plan, employer, or health care clearinghouse;
 - 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
 - iii. Either identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
 - e. “Privacy Rule” shall mean the Standards for Privacy of Individually Identifiable Health Information at 45 C.F.R. Part 160 and part 164, Subparts A and E.
 - f. “Protected health Information” (“PHI”) shall have the same meaning as used in 45 C.F.R. § 164.501, limited to the information created or received by Agent from or on behalf of Covered Entity or Corporation.
 - g. “Non-public Personal Information” (“NPI”) shall have the same meaning as used in 15 U.S.C.A. § 6809(4).
 - h. “Required By Law” shall have the same meaning as the term “required by law” in 45 C.F.R. § 164.501.
 - i. “Secretary” shall mean the Secretary of the Department of Health and Human Services or his designee.
 - j. Terms used, but not defined in, this agreement shall have the same meaning as given in the Privacy Rule.
3. **General Obligations and Activities of Agent.** Agent shall not use or disclose PHI or NPI other than as permitted or required by this agreement or as required by law. Agent may use or disclose PHI or NPI only to the extent minimally necessary to perform the specific services or duties for which Agent is retained. Use or disclosure by Agent may not violate the Privacy Rule is the same use or disclosure would be made by the Covered Entity. Agent may use PHI received or created by Agent if necessary for proper management and administration of Agent’s business or to carry out Agent’s legal responsibilities.
4. **Other Obligations.** At all times Agent agrees:
 - a. Not to use or disclose PHI or NPI for any purpose other than to perform the services for which Agent has been engaged by Corporation or as required by law;
 - b. To use appropriate safeguards to prevent the use or disclosure of PHI or NPI other than as provided for by this agreement;
 - c. To use or disclose only the minimum PHI or NPI necessary in the performance of Agent’s services;
 - d. To mitigate, to the extent practicable, any harmful effect that is known by Agent of a use or disclosure of PHI in violation of this agreement;
 - e. To report to Corporation any use or disclosure of PHI or NPI not in accordance with this agreement of which Agent becomes aware;
 - f. To ensure that any subcontractor to whom Agent provides PHI or NPI agrees to the same restrictions and conditions that apply to Agent;
 - g. To provide Corporation access, at its request, to any PHI received, created or obtained by Agent in order to allow Corporation to meet contractual requirements to the Covered Entity or as otherwise required by law;
 - h. To make any amendments to PHI that the Covered Entity or Corporation directs or agrees to at the request of the Covered Entity or Individual;
 - i. To document such disclosures of PHI and related information as would be required of Covered Entity in order to respond to an accounting of disclosures to an individual under the Privacy Rule;
 - j. To provide to Corporation the information necessary in order for Corporation or the covered Entity to provide an accounting of the PHI in accordance with the Privacy Rule;
 - k. Not to use or disclose PHI or NPI for any marketing purposes, whether done by Agent or any other person or entity; and
 - l. To make Agent’s internal practices, books, and records relating to the use and disclosure of PHI available to the Secretary for purposes of the Secretary determining Covered Entity’s compliance with the Privacy Rule.

5. Correspondence and Advertising. Agent and its affiliates agree to accept by facsimile, electronic mail and/or any other method of communication, including materials containing commercial advertisements, at any number or address currently on file and any number or address subsequently obtained by Corporation from Producer. Agent shall comply with all current and subsequently passed federal and state laws regarding the dissemination of advertising, including, but not limited to, laws and regulations regarding facsimiles, telephones and electronic mail.
6. Termination of the Agent Agreement. The terms of this agreement shall continue until all of the PHI or NPI provided by Corporation to Agent, or created or received by Agent in performing Agent's services under the Agent Agreement, is destroyed or returned to Corporation, or, if it is infeasible to return or destroy PHI or NPI, protections are extended to such information, in accordance with the termination provisions below.
7. Termination for Cause. Upon Corporation's knowledge of a material breach of the terms of this agreement by Agent, Corporation may:
 - a. Terminate the Agent Agreement and any other agreements between Corporation and Agent if Agent does not cure the breach or end the violation within the time specified in a written notice from Corporation; or
 - b. Immediately terminate the Agent Agreement and any other agreement between Corporation and Agent if cure by Agent is not possible.
8. Obligations upon Termination of the Agent Agreement. Upon written notice from Corporation to Agent that Corporation is terminating the Agent Agreement, Agent shall either destroy or return all PHI or NPI that Agent has received from Corporation or that Agent created in performing its services under the Agent Agreement. Agent shall retain no copies of such PHI or NPI. If Agent determines that returning or destroying the PHI or NPI provided to Agent by Corporation is infeasible, Agent shall extend the protections of this agreement to, and comply with its obligations under this agreement regarding the PHI or NPI and not make any further use or disclosure of the PHI or NPI, so long as Agent maintains such PHI or NPI. Agent shall provide written notice to Corporation of the conditions that make return or destruction of the PHI or NPI infeasible.
9. Indemnification. Agent agrees to indemnify and hold harmless Corporation and Covered Entity from and against claims, damages, losses, costs and expenses, including but not limited to attorney's fees, arising out of or resulting from Agent's or Agent's subcontractor's acts or omissions in protecting the privacy of PHI or NPI or from Agent's breach of terms of this agreement, or from the acts of anyone directly or indirectly employed by them or whose acts in relation to PHI or NPI they may be liable.
10. Survival of Obligations. All restrictions regarding the use and disclosure of PHI and NPI, as well as any indemnifications created by the Agent Agreement as amended, shall survive the termination of this agreement.
11. Effect of Agreement. Nothing in the Agreement shall be held to vary, alter, waive or extend any of the terms, conditions, agreements, or provisions of the Agent Agreement, other than as stated above. Any ambiguity in this agreement shall be construed so that the meaning is consistent with the requirements of the Privacy Rule.
12. Execution. The Agreement will become valid and binding upon execution by Corporation, regardless of whether Agent returns the signed Agreement to Corporation with Agent's original signature or returns the signed Agreement by facsimile, in which case Agent's facsimile signature shall be treated as an original.

Dated _____

Dated _____

Agent:

American Select Insurance Management Corporation

Signature

By: _____
Title: Authorized Officer

Printed Name

ASIM Agent/Agent no. (if contracted)