



# Agent of Record Appointment & Acceptance

**APPOINTMENT:** Allied National, Inc. ("Allied"), acting on behalf of certain employers ("Employers") who sponsor employee welfare benefit plans ("Plans"), and in its capacity as the third-party administrator ("TPA") of the Plans, hereby **appoints** the independent agent named below ("Agent") to act as **Agent of Record** on behalf of one (1) or more Employers, with respect to the Plans and the stop-loss insurance purchased by the Employers in conjunction with the Plans ("Stop-Loss").

**ACCEPTANCE:** By signature below as Agent, execution of the attached Business Associate Agreement ("BAA"), and delivery of a copy of Agent's insurance license, Agent hereby **accepts** the above appointment to act as **Agent of Record**.

**AGENT CERTIFICATION:** By signature below as Agent, Agent hereby certifies, to the best of Agent's knowledge and belief, that the information and statements provided below are accurate as of the Effective Date noted below.

## AGENT INFORMATION:

Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ SSN: \_\_\_\_\_  
(mm/dd/yyyy)

Home Address: \_\_\_\_\_  
(street; city; state; zip)

Business Address: \_\_\_\_\_  
(street; city; state; zip)

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

## AGENCY INFORMATION:

Agency Name as shown on license: \_\_\_\_\_

Federal Tax ID #: \_\_\_\_\_

## BACKGROUND INFORMATION:

Explain all "YES" Responses. Provide Complete Details and Attach Appropriate Documents.	Y/N
1. Have you ever been convicted of or plead guilty or no contest to a felony or misdemeanor?	
2. Have you ever been convicted of, plead guilty or no contest to, or are you currently charged with or under investigation for any misdemeanor involving dishonesty or breach of trust or any felony?	
3. Have you ever been the subject of an administrative proceeding regarding any professional or occupational license that resulted in disciplinary action?	
4. Has your insurance license ever been suspended by, subject to a consent order from, revoked by, or surrendered to, any regulatory agency, or have you ever been fined, penalized, sanctioned or subject to any other disciplinary action by a state or federal regulatory agency or self regulatory organization or are you currently under investigation as a result of your activities in the business of insurance, securities, banking, investment banking or real estate?	
5. Have you ever been the subject of a consumer-initiated complaint?	

6. Have you ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct?	
7. Have you ever had a claim filed against your professional liability or Errors and Omissions insurance coverage?	
8. Do you now owe money to any insurance company?	
9. Have you or a firm in which you were a partner, officer or director been declared bankrupt or been party to a bankruptcy or receivership proceeding?	
10. Are you subject to backup withholding of state or federal taxes or subject to any lien or garnishment of your property, bank accounts or wages?	
11. Are you now the subject of any complaint, investigation, or proceeding that could result in a "Yes" answer to any of the previous questions?	
12. Are you covered under an E&O or professional liability policy for your activities as Agent of Record?	

**AGENT AUTHORIZATION:** By signature below as Agent, Agent hereby authorizes:

1. Allied to investigate Agent's background to confirm the accuracy of the above Agent Certification.
2. A background investigation that may include "consumer reports" ordered from a "consumer reporting agency" containing criminal and credit histories, as those terms are defined by the Fair Credit Reporting Act ("FCRA").
3. Sharing of the above Agent Certification with all necessary third-parties for purposes of confirming its accuracy.

**AGENT ACKNOWLEDGMENT:** By signature below, Agent hereby acknowledges that:

1. Any inaccuracy in the above Agent Certification may result in termination of the Agent of Record appointment and forfeiture of all earned compensation.
2. Agent represents only the Employer and is restricted to acting solely on behalf of the Employer. Agent does not represent the Plan, the Stop-Loss carrier or Allied and is not authorized to act on behalf of those parties.
3. Agent's compensation for the Agent of Record appointment shall be negotiated by and between Agent and each Employer. Employer may delegate the payment of such compensation to Allied, as part of its TPA duties, but Employer is 100% responsible for payment of any and all compensation due Agent.
4. Each Employer has relieved the Stop-Loss carrier and Allied of any and all responsibility, and waives any claim (legal or otherwise) against the Stop-Loss carrier and Allied, for acting on Agent's verbal or written instructions or requests, if reasonably related to Agent's authority as Agent of Record.
5. Agent lacks authority to alter any due date, grace period, term or other provision of the Plan or Stop-Loss.
6. Agent lacks authority to act in a manner inconsistent with an Employer's obligation as the Sponsoring Employer of the Plan.
7. If Agent handles Plan funds on behalf of an Employer, Agent is obligated to comply with funds handling regulations under federal and state law (including fiduciary bonding and liability insurance).
8. Agent has at least \$1 million of E & O coverage extending to the Sponsoring Employer, Plan, Allied and Stop-Loss carrier and agrees to provide a copy of the E & O policy, if requested.
9. Receipt of Employer funds by Agent does not constitute receipt of such funds by the Stop-Loss carrier or Allied.
10. The Stop-Loss carrier and Allied have the right not to accept Agent's authority as Agent of Record for an Employer, if Agent fails to comply with any applicable law or regulation.

11. This appointment is subject to Agent's: acceptance by signature below; execution of the attached BAA; and delivery of a copy of Agent's insurance license to Allied.

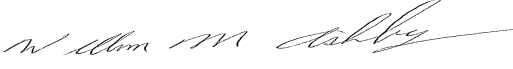
This Agent of Record appointment and acceptance is effective \_\_\_\_/\_\_\_\_/\_\_\_\_ ("Effective Date") and shall remain in force until revoked in writing by Allied, Agent or an Employer. The persons executing this document have the power and authority to legally bind the parties.

**AGENT**

\_\_\_\_\_  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ALLIED**

ALLIED NATIONAL, INC.

By:   
Name: William M. Ashley  
Title: CEO

## **BUSINESS ASSOCIATE AGREEMENT**

(Agent of Record)

THIS Business Associate Agreement ("Agreement") is made and entered into by and between the independent insurance agent identified on the signature line below ("Agent"), and Allied National, Inc., a Missouri corporation ("Allied"), and is effective as of the Effective Date stated below.

WHEREAS, in connection with certain insurance policies and employee benefit plans administered by Allied, Agent desires to provide certain agent of record services to insureds and plan sponsors of those Allied policies and benefit plans ("Agent of Record Services");

WHEREAS, Allied is subject to certain requirements as a result of its being a Covered Entity pursuant to the Health Insurance Portability and Accountability Act of 1996, as amended ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009, as amended ("HITECH Act"); and Agent will be subject to certain requirements as a result of its being a Business Associate of Allied pursuant to HIPAA and the HITECH Act.

WHEREAS, during the course of providing the Agent of Record Services, Agent may also access, create, receive, maintain, store, use, re-use, share and/or disclose certain Nonpublic Personal Information ("NPI") [as defined in § 509(4) of the Gramm-Leach-Bliley Act of 1999 ("GLB") and similar state privacy laws] and/or certain Protected Health Information ("PHI") as defined in the HIPAA Rules (45 C.F.R. Articles 160-164).

WHEREAS, the parties desire to execute this Agreement to ensure compliance with said privacy provisions of GLB, HIPAA, HITECH and similar state privacy laws during the course of Agent providing the Agent of Record Services.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and for other good and valuable consideration, the parties agree as follows:

### **I. GLB Privacy Obligations**

- A. To ensure the security, confidentiality and integrity of NPI by implementing and maintaining such safeguards as required under GLB and applicable state privacy laws;
- B. To restrict access to NPI to those authorized parties whose access is appropriate and reasonably necessary to fulfill obligations under GLB, applicable state privacy laws, or other applicable law or regulation and Agent's obligations in providing the Agent of Record Services; and
- C. To use and disclose NPI only for insurance purposes in fulfilling obligations under GLB, applicable state privacy laws, or other applicable law or regulation and Agent's obligations in providing the Agent of Record Services.

### **II. HIPAA Privacy Obligations**

- A. To ensure the security, confidentiality and integrity of PHI by implementing and maintaining such safeguards as required under HIPAA, HIPAA Rules and HITECH Act and applicable state privacy laws;
- B. To use or disclose PHI only in fulfilling obligations as required by applicable law and Agent's obligations in providing the Agent of Record Services.
- C. Not to use or disclose PHI in violation of HIPAA, HIPAA Rules, HITECH Act, applicable state privacy laws or this Agreement.
- D. To implement and maintain all appropriate and reasonable administrative, physical and technical safeguards to maintain the security, integrity, confidentiality and availability of and to prevent non-permitted use or disclosure of PHI as required by HIPAA, HIPAA Rules and HITECH Act (including the Security Standards and Implementation Specifications for electronic PHI) and applicable state privacy laws. Agent shall develop and implement written policies and procedures for these safeguards and shall keep them current.
- E. To promptly report to Allied's Privacy Officer the following types of incidents within the respective time period:
  1. Any use or disclosure of PHI of which Agent becomes aware that is (or might qualify as) a violation of Allied's HIPAA Policies and Procedures or any suspected acquisition of or access to PHI by an unauthorized person of which Agent becomes aware. Agent shall make the report immediately.
  2. With respect to any incident not subject to reporting under #1 above, any successful (a) unauthorized access, use, disclosure, modification, or destruction of electronic PHI or (b) unauthorized interference with system operations in Agent's information system, of which Agent becomes aware. Agent shall make the report within ten (10) days of Agent's discovery of the incident.
  3. Upon Allied's request and within a reasonable time, any attempted, but unsuccessful (a) unauthorized access, use, disclosure, modification, or destruction of electronic PHI or (b) unauthorized interference with system operations in Agent's information systems, of which Agent becomes aware.
  4. With respect to any incident not subject to reporting under #'s 1, 2 or 3 above, any unauthorized use or disclosure of PHI not provided for by this Agreement of which Agent becomes aware. Agent shall make the report within ten (10) days of Agent's discovery of the unauthorized use or disclosure.

- F. With respect to any incident described in E.1 above, to comply, and to require any Agent officer, employee or other member of its workforce, or Agent subcontractor ("Agent Representative") to comply, with Agent's Breach Management and Notification Policy.
- G. To mitigate, to the extent practicable, any harmful effect that is known to Agent of a use or disclosure of PHI in violation of this Agreement by Agent or by an Agent Representative.
- H. To not permit an Agent Representative to access PHI until it agrees in writing to comply with the same restrictions and conditions that apply to Agent with respect to PHI, including implementing reasonable and appropriate safeguards to protect PHI in electronic form.
- I. To provide access, in a reasonable time and manner, to an individual, upon request, to inspect and copy his/her own PHI in a Designated Record Set in accordance with HIPAA and HIPAA Rules.
- J. To amend an individual's PHI in a Designated Record Set in a reasonable time and manner, upon request, in accordance with HIPAA and HIPAA Rules.
- K. To document and, upon request, provide to an individual in a reasonable time and manner, information about such disclosures of PHI as would be required for Allied to respond to a request by an individual for an accounting of the disclosures of his/her PHI in accordance with HIPAA and the HIPAA Rules.
- L. To make its internal practices, books, and records, including policies and procedures relating to the use and disclosure of PHI, available to Allied or to the Secretary of the Department of Health and Human Services for purposes of determining Allied's compliance with 45 C.F.R. Article 164, Subpart E (the "Privacy Rule"). Agent shall maintain all records required by HIPAA for a period of at least six (6) years from the date of last use.
- M. To use, disclose, or request PHI in a "limited data set" (as defined in the HIPAA Rules at 45 C.F.R. § 164.514(e)) if practicable. Otherwise, Agent shall, in the performance of its functions and activities on Allied's behalf, make reasonable efforts to use, to disclose, or to request of another entity only the minimum necessary amount of PHI to accomplish the intended purpose of the use, the disclosure, or the request when Allied would be required to do so by HIPAA or the HIPAA Rules. Agent shall determine what constitutes the minimum necessary PHI to accomplish the intended purpose of any disclosure and shall not rely on a request from a third party for the minimum necessary, except as allowed by HIPAA, HIPAA Rules and HITECH Act .
- N. To process, in accordance with HIPAA and the HIPAA Rules, any request from an individual and comply with any request to which Agent agrees that either (i) restricts use or disclosure of PHI or (ii) requires confidential communication about PHI.
- O. Agent shall neither use nor disclose PHI in any manner inconsistent with the content of Allied's then current Notice of Privacy Practices, sent to insureds or covered persons.
- P. If Agent conducts in whole or part Standard Transactions on behalf of Allied, Agent shall comply, and shall require any Agent Representative involved with the conduct of such Standard Transaction to comply, with each applicable requirement of 45 C.F.R. Article 162. Agent shall not enter into, or permit Agent Representatives to enter into, any Trading Partner Agreement in connection with the conduct of Standard Transactions on behalf of Allied that (a) changes the definition, data condition, or use of a data element or segment in a Standard Transaction, (b) adds any data element or segment to the maximum defined data set, (c) uses any code or data element that is marked "not used" in the Standard Transaction's implementation specification or is not in the Standard Transaction's implementation specification, or (d) changes the meaning or intent of the Standard Transaction's implementation specification.
- Q. To return to Allied, or destroy, and not to retain copies of, all PHI of Allied upon termination of providing the Agent of Record Services, provided that if such return or destruction is not feasible, the protections of this Agreement shall continue beyond termination for any such PHI of Allied remaining in the custody or control of Agent.

### **III. General Provisions**

- A. Allied may terminate the Agent of Record Services if Allied determines, in its sole discretion, that Agent has engaged in a pattern of activity or practice that constitutes a material breach or violation of Agent's obligations under this Agreement. Allied may exercise its right to terminate by providing Agent written notice of termination outlining the breach that provides the basis for the termination and terminating if, after thirty (30) days, Agent has not cured the breach or ended the violation. Allied may, however, terminate immediately, upon reasonably concluding that Agent has failed promptly to take reasonable steps to cure the breach or end the violation and that the ongoing breach or violation poses a significant risk of financial, reputational, or other harm to Allied's insureds or covered persons;
- B. Remedies at law for any breach of the material provisions of this Agreement shall be inadequate and monetary damages resulting from such a breach shall not be readily measurable. Accordingly, in the event of a breach or threatened breach by Agent of the material provisions of this Agreement, Allied shall be entitled to immediate injunctive relief against Agent. However, Allied shall not be prohibited from pursuing any other remedies available under applicable law for any such breach, and all rights to injunctive relief under applicable law shall be cumulative;
- C. In the event of a change in GLB, HIPAA, HITECH Act or state privacy law material to this Agreement, the parties agree to amend this Agreement as is necessary to comply with any such change, to be effective as of the stated effective date of that change. However, if an amendment is not executed by that effective date, the parties agree this

Agreement (as is necessary) shall automatically conform to said change as of its effective date. The right to amend under this Agreement and applicable law shall be cumulative;

- D. Agent shall notify Allied immediately upon Agent's receipt of notice of an investigation of or lawsuit against Agent or an Agent Representative, related to or arising from use or disclosure of PHI in providing the Agent of Record Services; and
- E. Agent shall inform all Agent Representatives who access PHI under this Agreement (i) of Agent's obligations under this Agreement, HIPAA, the HIPAA Rules, and the HITECH Act and (ii) that it is the duty of each Agent Representative to comply with all such obligations.
- F. Agent shall defend, indemnify and hold Allied harmless from all loss, costs, judgments, settlements, fines, assessments, penalties or other monetary expenditures, including reasonable attorney fees, incurred by Allied, as a direct or indirect result of a violation by Agent of this Agreement;
- G. Any notice to be given hereunder to each of the parties shall be made via registered or certified mail, postage prepaid, return receipt requested, by facsimile, by e-mail or express courier to such party's address as indicated below. Notice shall be effective upon receipt;
- H. This Agreement contains the entire agreement of the parties. This Agreement may not be changed orally, but only by an amendment in writing signed by both parties.
- I. This Agreement shall be governed by, construed and enforced in accordance with, the laws of the State of Kansas;
- J. In any event that any part of this Agreement is held to be void, voidable, or unenforceable for any reason whatsoever, the remainder of this Agreement shall not be held void, voidable or unenforceable and shall remain in full force and effect;

**IV. Survival**

- A. Articles I and II above will survive termination of this Agreement and will remain in effect from the Effective Date of this Agreement until terminated pursuant to B below.
- B. Automatic termination.
  - 2. Automatic Termination. Articles I and II above will automatically terminate without any further action by Allied or Agent when Agent completes either (a) the destruction or (b) the return to Allied of all PHI subject to this Agreement.
  - 3. Effect of Termination of Agent of Record Services. Except as provided in Subsection II.Q above, upon termination of the Agent of Record Services, Agent shall within ten (10) days return or destroy all PHI and Agent shall retain no copies of such PHI. This provision will apply to PHI that is in the possession of all Agent Representatives. In the event that Agent determines that returning or destroying PHI (as provided in Subsection II.Q above) is infeasible, Agent shall provide to Allied notification of the conditions that make return or destruction infeasible. Agent shall extend the protections of Articles I and II above to such PHI and limit further uses and disclosures of such PHI to those purposes that make the return or destruction infeasible, for so long as Agent (or Agent's Representative) maintains such PHI.

**V. Interpretation**

Any ambiguity in this Agreement will be resolved to permit the parties to comply with HIPAA, the HITECH Act, and the HIPAA Rules.

IN WITNESS WHEREOF, the parties hereto have caused this Business Associate Agreement to be executed by their duly authorized representatives, effective \_\_\_\_/\_\_\_\_/\_\_\_\_ ("Effective Date").


**AGENT**

**ALLIED**

\_\_\_\_\_

ALLIED NATIONAL, INC.

By: \_\_\_\_\_

By: 

Address: \_\_\_\_\_

Address: 4551 W. 107<sup>th</sup> Street, Suite 100

\_\_\_\_\_

Overland Park, KS 66083

Name: \_\_\_\_\_

Name: William M. Ashley

Title: \_\_\_\_\_

Title: CEO